

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15307 of 2021

M/s Mahadev Enclave Pvt. Ltd. a registeted Company having its registered Office at B-37, Ayodhya Marg, Hanuman Nagar, Jaipur, Rajasthan through one of Its Directors namely Kartik Rathi Male aged about 28 Years S/o Shri Ajay Rathi R/o 3-B 22 23 Sukhadia Nagar, Sri Ganganagar (Rajasthan).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Department of Mines and Geology, Govt. of Bihar, Patna.
2. The Principal Secretary Cum Commissioner, Department of Mines and Geology, Govt. of Bihar, Patna.
3. The Director, Department of Mines and Geology, Government of Bihar, Patna.
4. The District Magistrate Cum Collector, Gaya.
5. The Mines Inspector, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate Mr. Atal Bihari Pandey, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Ms. Ekta Rani, Advocate
For the State	:	Mr.Gyan Prakash Ojha, GA-7
For the Mines	:	Mr. Naresh Dikshit, Special P.P. Mines Mr. Utsav Anand, Advocate, JC to Special P.P. Mines

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 10-08-2023

IA No.01/2023

The interlocutory application has been preferred for:

*i) for issuance of a writ in the nature of
certiorari for quashing of part of the order dated
28.03.2023 passed by the respondent number 2 in
Miscellaneous Case Number 07 of 2022 (Gaya) by
which the respondent Collector, Gaya has been*



directed to take necessary action against the petitioner in terms of part IX clause 7 of the lease deed in spite of interim order dated 05.10.2021 and 02.11.2021 passed in this case being in operation;

ii) for restraining the respondents especially the respondent Collector Gaya from taking any further action in terms of paragraph 6 of the said order dated 28.03.2023 passed by the respondent number 2 in Miscellaneous Case Number 07 of 2022 (Gaya) as the same is violative of the order of this honourable court passed in this case on 05.10.2021 and 02.11.2021;

iii) for issuance of writ or order or direction upon the respondent Department of Mines And Geology, Government of Bihar to grant 3 months further time to the petitioner to remove the remaining stock of minerals lying in the mining site under lease deed executed with the petitioner in view of the changed facts and circumstances of this case.

Since there is no opposition from the respondents,

I.A. No.01/2023 is allowed.



CWJC No.15307 of 2021

Heard Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner and Mr. Utsav Anand, learned JC to Special P.P. Mines.

2. The prayer in the writ petition is for following reliefs:

(a) for directing the respondents especially the respondent No. 3 to permit allow issuance of e-challans in favour of the petitioner;

(b) for direction upon the respondents especially the respondent number 3 to 5 to issue such e-challans continuously for a period of four months from the date of its commencement;

c) for further holding that withholding/denial of issuance of e-challans for removal of assets including mining material from the mining site after surrender of lease constitutes virtual taking away of such right of the petitioner which is guaranteed under part IX. clause 06 of the lease deed in form B executed and accepted by the petitioner and the respondents;

d) for a declaration that the conduct of



the respondents presents a situation of grant of writ by one hand and taking away by another which is impermissible in law;

e) for a declaration that granting six months' time to the petitioner for removal of materials and assets from the mining site and denial of e-challans.

3. Learned counsel for the petitioner submits that with the passage of time, certain development has taken place and as such his prayer is now confined to only extension of one more month for removal of the machinery kept on the place.

4. The facts of the case is/are as follows:

5. The petitioner was granted mining lease for the period 20.02.2016 to 19.02.2021 (5 years) at Mauza Gere in the district of Gaya.

6. It is the case of the petitioner that he performed to the full satisfaction of the respondents and after the lease period came to an end, sought time for removal of the machinery. It is his case that the respondent District Mining Office, Gaya on the next day itself, 20.02.2021 gave a detailed information to the Assistant Director, Mines and Geology, Bihar, Patna vide memo no.1470 dated 21.02.2021 (Annexure-2 to the petition). It is his



case that the District Magistrate, Gaya as also the District Mining Officer, Gaya were also in agreement of granting six months time for removal of the machinery and communication to this effect was made to the department.

7. As no permission was forthcoming, the petitioner made his first representation on 07.06.2021 which was repeated on 21.06.2021, 28.06.2021, 14.07.2021 and 04.08.2021. It is his case that fed up with the response of the respondents, an RTI information was sought for with regard to similar situate another lessee.

8. According to him, the RTI information was given by the letter no.2332/M dated 19.08.2021 (Annexure-11 Series to the supplementary affidavit) in which Mining Development Officer (Headquarter) replied that in case of stone mining block number 03 at Mauza Razauli, Nawada; against the departmental recommendation of six months, three months period was granted.

9. It is his case that series of communication finally led the District Mining Officer (Headquarter), Bihar, Patna vide memo no.4268 dated 25.08.2022 to grant three months period for removal of the machinery (Annexure-16 to the I.A. 01/2023).



10. Learned counsel for the petitioner submits that since the same could not be completed within the three months, he wanted extension of one more month. However, the Miscellaneous Case No.07/2022/Gaya was disposed of by the Mines Commissioner, Mines & Geology Department vide memo no.1713 dated 28.03.2023 by which after recording the facts of the case in paragraphs 3,4 & 5 and taking into account that he conducted mining works uninterrupted and further six months was granted to remove his plant, machinery, blasted rock, which he failed to do, the Collector, Gaya was directed to take necessary action. (Annexure-18 to the IA No.01/2023).

11. He has challenged the same vide IA No.01/2023.

12. Learned counsel for the petitioner submits that admittedly, only three months period was granted as would reflect from the Annexure-16 to the I.A. No.01 of 2023 and as such there is an error of record on the part of the Mines Commissioner in recording the order as at no point of time, the six months period was granted to the petitioner.

13. Having heard the parties and perusing the records in the considered opinion of the court, although the RTI information that the petitioner got clearly shows that in similar situate case, only three months period was granted, considering



that there is an error of record on the part of the Mines Commissioner while passing the order wherein it has been recorded that six months period was granted to the petitioner to remove the left over products, machinery, whereas, as per the record, only three months period was granted, his prayer for granting one more month may be considered by the respondent authorities.

14. Accordingly, this Court directs that if the petitioner prefers a fresh representation with limited prayer for providing extension of one month (for removing machinery, the plants, blasted rocks) before the respondent no.1, the Principal Secretary-cum-Commissioner, Department of Mines and Geology, Bihar, Patna, he shall consider the same and pass a reasoned order within a period of eight weeks from the filing of the representation.

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

(Rajiv Roy, J)

Prakash Narayan

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