

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9902 of 2023

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Santosh Kumar Son of Akhilesh Singh, Resident of Village Ekbalganj, P.S.
Rani Talab, District – Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna..
3. The Assistant Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Collector cum District Magistrate, Patna.
5. The District Mining Officer, Patna.
6. The Mineral Development Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Adv.
For the Respondent/s : Mr. Naresh Dikshit, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 31-08-2023

Heard Mr. Suraj Samdarshi, learned counsel for the petitioner and Mr. Naresh Dikshit, learned Special P.P. for the Mines.

2. The petitioner by invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, seeks following relief(s):

“ i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing letter no. 2177 dated 03.09.2022 (Annexure 10) issued by the Respondent Mineral Development Officer, whereby the petitioner has been directed to deposit



a sum of Rs. 1,69,40,343/- as cost of 3,18,128.5 CFT sand alleged to have been transported without issuance of e-transit challans.

ii) Consequent to grant of relief no. (i), to direct the respondents to remove the restriction on generation of e- transit challans on the portal <http://portal.biharmines.in/> so that petitioner may sell sand stocked at K- license No. K-Patna/89/2022.

iii) Or in the alternative, direct the Respondent Collector to expeditiously dispose of the appeal filed by the petitioner against the letter no. 2177 dated 03.09.2022 in a time framed manner.

iv) To issue an appropriate a further writ, order or direction in the nature of mandamus commanding the Respondents to conduct a fresh inspection of K-license No. K-Patna/89/2022 with prior intimation and in the presence of the petitioner.

v) This Hon'ble Court may adjudicate and hold that the alleged inspection report dated 23.08.2022 given by a consultant is bad in the eyes of law as the same is completely dehors the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 which does not provide for engagement of consultants by the Respondents for the purpose of inspections etc.

vi) This Hon'ble Court may further adjudicate and hold that the letter no. 2177 dated 03.09.2022 is bad in the eyes of law on the grounds that a) the same has been passed in a mechanical and



superficial manner without specifically dealing with the points raised by the petitioner in the show cause reply dated 29.08.2022; b) the same does not disclose under which provision of the 2019 Rules the penalty has been levied; c) the sand stocked at K-license site is already royalty paid; d) no extra royalty is payable to the respondents at the time of sale of mineral from the K -license sites; and e) no pecuniary benefit is to enure to the petitioner by selling/transporting mineral without issuance of e-transit challans.

vii) This Hon'ble Court may further adjudicate and hold that the action of the Respondent Authorities in levelling false allegation of selling sand without issuance of e-transit challans and thereby suspending generation of e-transit challans, is an act of mala fide and complete arbitrary exercise of authority/power.

viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that earlier also the petitioner had approached this Court for identical relief in C.W.J.C. No. 15329 of 2022 and the Division Bench of this Court has been pleased to observe that the issue raised both, of fact and law, can conveniently be adjudicated by the fact finding adjudicatory authority as stipulated under section 67 of



the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (for brevity 'the Rules, 2019). Thus in terms of the aforesaid observation, the petitioner withdrew the writ application with liberty to take recourse of the appeal as provided under Section 67 of the Rules, 2019 and, accordingly, an appeal has been preferred against the order as contained in letter no. 2177 dated 03.09.2022. The aforementioned appeal has been filed way back on 24.11.2022 itself but, till date the same has not even been taken up. He has made a further prayer that the sand stocked at the K licence sites is still lying which is being swindled away by unscrupulous elements causing huge loss to the petitioner. Thus, the petitioner may be allowed to uplift the stock available on the K licence sites in terms of the agreement executed in favour of the petitioner.

4. On the other hand, learned Spl. P.P. for the mines submits that since the petitioner has already preferred an appeal before the respondent no.4, Collector-cum-District Magistrate, Patna, and the same is pending adjudication, it would be proper to dispose of this matter with a direction to dispose of the appeal expeditiously.

5. At this juncture, Mr. Samdarshi, learned counsel for the petitioner, withdrew the attention of this Court to Rule 67(3)



of the Rules, 2019 and with reference thereto, he submits that it is the mandate of the law that all appeals shall be disposed of within three months from the date of its filing. However, till date even after lapse of nine months, the same has not even been taken up.

6. Considering the submissions made on behalf of the parties and the nature of dispute, the present writ application stands disposed of with a direction to the respondent no.4, Collector-cum-District Magistrate, Patna, to dispose of the appeal preferred against the order as contained in letter no. 2177 dated 03.09.2022, expeditiously, preferably within a period of four weeks from the date of receipt/production of a copy of this order.

7. It is needless to observe that the petitioner is at liberty to file an application for his further prayer of removal of the stock from the K licence sites and, if such a representation is filed within a period of one week, the same shall also be considered and disposed of simultaneously.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01-09-2023
Transmission Date	

