

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13532 of 2023

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Arena Food & Agro Industries Private Limited, a company incorporated under the provisions of Companies Act, 1956, having its registered office at Village Nimi, P.S.- Shekhopur, District- Nawada, through its director, Radhey Sharma, aged about 49 years, Son of Harangi Singh, resident of village Nimmi, P.S. Shekhopur, District - Sheikhpura.

... .. 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, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate cum Collector, Sheikhpura.
5. The Mineral Development Officer, Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA- 7 Mr. Abhishek Singh, AC to GA-7
For the Mines Department :		Mr. Naresh Dikshit, Advocate Mr. Utsav Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 12-10-2023

Heard Mr. Suraj Samdarshi, learned counsel for the petitioner and Mr. Naresh Dikshit, learned Spl. PP for the Mines.

2. The petitioner, who is a company incorporated under the provisions of Companies Act, 1956 through its Director, filed the present writ petition seeking following reliefs:

(i) To issue an appropriate writ,



order or direction in the nature of certiorari for quashing order dated 28.03.2023 contained in memo no. 362 dated 03.04.2023 passed by the Respondent Collector, Sheikhpura in Appeal No. 96/2022 whereby and whereunder appeal preferred by the Petitioner under the Rule 67 of the Bihar Minerals (Concession, Prevention of Illegal nature Mining Transportation & Storage) 2019 Rules against letter no. 731 dated 06.07.2022 issued by the Respondent Mineral Development Officer, Sheikhpura directing the petitioner to deposit additional royalty of Rs. 6,25,34,581/-, has been dismissed on wholly erroneous consideration.

ii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondent to allow the petitioner to lift 192,457.376 Metric Tonne boulder/stones already lying at the mining site which has been excavated by the petitioner during the lease period.

iii) This Hon'ble Court may adjudicate and hold that in terms of Part IX Clause 6 and clause 7 of the Agreement, upon expiration/termination of the agreement, the petitioner is entitled to remove plant, machinery and other articles including already excavated material from the mining site.

iv) This Hon'ble Court may further adjudicate and hold that the action of the



Respondent Authorities in not allowing the petitioner to remove the minerals already excavated during the term of the agreement is bad in the eyes of law.

v) This Hon'ble Court may adjudicate and hold that the petitioner is not liable to pay any additional royalty for the settlement period in relation of agreement dated 30.03.2017 considering that fact that petitioner has not exceeded its permissible limit as fixed in the Environment Clearance.

vi) This Hon'ble Court may further adjudicate and hold that according to Schedule II of Bihar Minor Mineral Concession Rules, 1972, in case settlement through auction, the royalty under Rule 26 (1) (b) is the auction amount and that no additional royalty is payable in case the total quantity of mineral removed is within the capping fixed in the environment clearance.

vii) This Hon'ble Court may further adjudicate and hold that the rates mentioned in Schedule II of 1972 Rules and Schedule III A of the 1972 can only be applied to calculate the royalty for excess mineral dispatched when a settee exceeds the permissible limit as fixed in the Environment Clearance.

viii) This Hon'ble Court may adjudicate and hold that the action of the Respondents in this matter is an act of unreasonableness and arbitrariness on the



part of the Respondents.

ix) To award any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case.

3. Though the petitioner has made various submissions assailing the impugned order. However, after some argument, the petitioner is ready to deposit the additional royalty amount of Rs.6,25,34,581/- without being prejudiced to his right and entitlement to assail the same before the Principal Secretary, Mines and Geology Department, Government of Bihar only in order to get the permission to lift 192,457.376 Metric Tonne boulder/stones already lying under the Mining site, which has been excavated by the petitioner during the lease period.

4. The only predicament of the petitioner is that as under the agreement, especially Clause 6 of Part IX, subject to payment of rent and royalties, the lessee has been provided liberty to remove his property, including, machinery, plant, building etc. at the expiration or sooner determination of the said term or within six calendar months. The petitioner may also be allowed six months period, on his undertaking before this Court that within the said period, the amount of additional royalty, in question, shall be paid in six equal installments on monthly basis.



5. At this stage, learned counsel for the Mines Department though refuted the submissions and insisted that the entire payment shall be made in one go and the period cannot be extended beyond the stipulated period mentioned in the impugned order.

6. Considering the submissions made on behalf of the parties and taking note of the bonafide undertaking of the petitioner that he is ready to deposit the additional royalty amount within a period of six months, this Court deems it apt and proper to allow the petitioner to pay the amount in six equal instalments on monthly basis.

7. However, it is needless to observe that the permission to lift the boulder/stones shall be issued only after payment of first installment, before 10th of November, 2023. It is also made clear that within six months i.e. upto 10.04.2023 the entire payment of additional royalty of Rs.6,25,34,581/- must be made within six equal monthly installments. Failure of any installment in any month would lead to cancellation of the order, giving liberty to respondents to take appropriate action. Further, this order will not prevent the Mines Department to make any settlement with any lessee in connection with the site, in question, but during this period of six months, the site, in



question, will not be handed over to the successful bidder.

8. Any payment shall be made by the petitioner is subject to the final outcome of the litigation.

9. Mr. Suraj Samdarshi, learned counsel for the petitioner further submits that the petitioner also undertakes to file revision application before the Commissioner against the order dated 28.03.2023 passed by the Collector, Sheikhpura within two weeks pursuant to the order of this Court dated 22.08.2023 passed in C.W.J.C. No. 7134 of 2023.

10. In view of the prayer made by the petitioner, in the interest of justice, as a last chance, further two weeks time is extended.

11. With the aforesaid observation and liberty, the present writ petition stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.10.2023
Transmission Date	NA

