

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16065 of 2022

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Somya Enterprises through its Proprietor Devraj Kumar Gender-Male, aged about 35 Years, S/o-Ganesh Yadav, R/o-Berar Tola P.S.-Rani Talab, District-Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary-Cum-Commissioner and Mines Geology Department, Bihar, Patna.
2. The Director Mines-Cum-CEO, BSMC, Ltd.
3. The Administrative Office BSMC, Ltd.
4. The Mining Development officer, Ara.
5. The District Transport Officer, Bhojpur, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shambhu Narayan Singh, Advocate
For the State	:	Mr.Gyan Prakash Ojha, GA-7
For the Mines	:	Mr. Naresh Dikshit, Advocate
		Mr. Brij Bihari Tiwari, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 23-06-2023 Heard the parties.

The prayer is for issuance of an appropriate writ to quash the order dated 23.09.2022 (Annexure-3) passed by the respondent No.-2 vide memo No.- 08/BALU-139/22/1999 and further direction to the respondent authorities to stay the effect and operation of order dated 23.09.2022 passed by respondent No.-2 vide memo No.- 08/BALU-139/22/1999 during the pendency of the writ petition.

Learned counsel for the petitioner submits that before the Director, Mines, Bihar, Patna the following stand was taken:

5. The contractor replied vide his letter



dated 05/08/2022, wherein he submitted the following:-

a) Most of the tractors in the rural areas are not registered and primarily used in agriculture. However, when such tractors are used for transportation of sand, the owners/drivers thereof disclose the chassis number of the tractors at the time of loading of sand. The chassis number is entered by us on the online portal which is reflected as CH in the transit challans. The practice of entering chassis number of unregistered vehicles on the online portal at the time of generating transit challan is a new practice. The practice of generating of e- challan on the basis of last 4 digits of chassis number had been accepted by the department since e-challan cannot be downloaded unless approved by the department.

b) There is no restriction in the 2019 Rules the transportation of minerals has to happen only through registered vehicle. Moreover, a bare perusal of From G of schedule III B of the 2019 Rules, shall reveal that at point 16 only the "vehicle number has been mentioned and not the registration number". It is humbly submitted the vehicle number and registration number are two different things and it was not mandatory to mention the registration number of the vehicle in the



transit challans.

c) Rule 41 of 2019 rule mandates monitoring of movement of minerals through e- challans. If the corporation was of the opinion the chassis number could not be entered in the transit challans, it should have immediately intimated us. Rule 43 of 2019 merely prohibits the transportation of mineral e-challans in Form G. It does not talk about registration of vehicle. In so far as rule 56 is concerned, it is submitted that the same can be invoked only when minerals are excavated without any mineral concession.

d) The moreover the online portal has inbuilt mechanism which restricts the generation of e-challans if the permissible capping is exceeded. Thus, in no case, can a settlee or a concession holder transport mineral in excess of our permissible limit. Thus Rule 56 cannot be violated in our case.

It is his further submission that rejecting the said submission, an order was passed to pay Rs.3,35,43,700.00 only as penalty under Rule-56 for illegal mining/transportation of 25,316 MT of sand through 6124 E-Challans. The balance amount of security deposit of the contractor-petitioner (Rs.1,30,47,712.00) was adjusted and thereafter he was directed to pay Rs.02,04,95,988/- in the bank account.



Learned counsel for the petitioner has taken this Court to an order in CWJC No.14311 of 2022 (Geeta Enterprises vs. The State of Bihar) and batch cases and he submits that he is also entitled to the similar relief.

By way of an I.A. No.01 of 2023, it has been brought on record that he had already deposited the entire amount fined by the Director, Mines prior to filing of the writ petition on 01-10-2022 itself under protest and as such he is entitled for the refund.

Learned counsel for the Mines concedes that the case in hand is similar to the other cases decided on 20-06-2023 in CWJC No.14311 of 2022 and batch cases and as such a similar order can be passed in this case also.

Learned counsel for the Mines further submits that although in October, 2022, the petitioner claims to have made entire payment, the counter affidavit filed by the Mines in November, 2022 do not reflect whether such payment was made or not.

It is for the Mines Department to check and/or the petitioner to satisfy whether the amount as claimed to have been paid by him has actually been paid or not.

Taking into account the fact that the orders passed by



this Court earlier in CWJC No.111 of 2023 (Harsh Construction Vs. The State of Bihar & Ors.) decided on 02.05.2023 by a coordinate bench of this Court as well as CWJC No.14311 of 2022 (Geeta Enterprises vs. The State of Bihar & Ors.) and batch cases decided on 20.06.2023 by this Court, a similar order is passed in the present case.

The order dated 29.09.2022 passed by the respondent no.2, the Director Mines-cum-CEO, Bihar Sand Mining Corporation Limited, Bihar, Patna vide memo no.08/Balu-9/21-2148 dated 29.09.2022 stands quashed.

The Director Mines-cum-CEO, Bihar Sand Mining Corporation Limited, Bihar, Patna is directed to refund the security deposit as also the amount which the petitioner claims to have deposited prior to filing of the writ petition (if the said statement is correct) in terms and conditions decided in CWJC No.14311 of 2022 and batch cases

The writ petition is accordingly disposed of.

(Rajiv Roy, J)

Prakash Narayan /-

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