

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17383 of 2022

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Ajay Kumar Singh, Son of Sri Baij Nath Singh, Resident of Village-
Kanchanpur, P.S.- Sasaram, District- Rohtas (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretary, Patna.
2. The Principal Secretary, Department of Mines and Geology, Govt. of Bihar.
3. The Addl. Secretary, Department of Mines and Geology, Govt. of Bihar,
New Secretariate, Patna.
4. The Mineral Development Officer, Sasaram at Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jai Prakash Singh, Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha (GA7)
		Mr. Naresh Dikshit, Special P.P.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 09-01-2023 Petitioner has prayed for the following relief/s :

“The notification dated 27.03.08 amending the Bihar Minor Mineral Concession Rules is unconstitutional being violative of art 14 & 19 (1)g of the Constitution of India being, arbitrary, unreasonable and irrational.

(b) Fastening liability to pay extra royalty for the quantity of the stone extracted and dispatched with effect from 29.11.2004 is without jurisdiction and beyond the competence of the govt. of Bihar as a delegate under section 15 of mines and mineral (development) Act 1957.

(c) The addition of provision in column 3 for entry 1 and Entry no-II of schedule II is irrational arbitrary and contravene art 14 of the Constitution.

(d) The state Govt. by exercise of rule



making power under section 15 of mines and mineral (development) Act 1957 cannot enhance royalty with retrospective effect by deeming fiction as the fiction cannot be stretched beyond logical limit.

(e) The vested right of the petitioner and corresponding duty of the respondent in terms of concluded contract cannot be altered between the petitioner and the respondent and alteration in the terms and condition of the lease agreement during its continuance is impermissible in law.

(f) The demand raised by the respondent is illegal and without jurisdiction and it will amount to inserting additional condition unilaterally in the concluded contract.

g) The scheme under Rule 52 of B.M.M.C.Rule 1972 is only a modality for grant of lease by auction and cannot be construed as enabling provision to retrospectively enhance the liability.

(i) For appropriate declaration and reading down the notification dt.27.03.2008 to make it prospective and effective from the date of notification in the official Gazzette to be applicable in future context.

(ii) For a follow up direction to the Respondents not to act upon the notification dt.27.03.2008 and restrain from raising any demand on the basis of the impugned notification.

(iii) For quashing of the demand of Rs.1,24,00,000/- raised as royalty by the respondent no-4.

(iv) For further quashing the order dt.11.08.2022 passed in Misc case No-02/2022 whereby the commissioner-cum Principal Secretary, Mines has rejected the representation filed by the petitioner.

(v) For any other relief or consequential reliefs to the petitioner for which the petitioner may be found entitled to in the facts and circumstances of the case.”

Learned counsel for the petitioner seeks permission



to withdraw the present petition.

Permission granted.

The petition stands disposed of as withdrawn.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/-

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