

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17693 of 2022

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M/S Veereshwar Kripa Infrastructure, B/206, Shashwat Mahadev Height, Nr. Reliance Petrol Pump, Vastral, Ahmedabad, Through its Power of Attorney Holder Ujjbal Kant, aged about 31 years, Male, Song of Anil Sharma, Resident of - Narhan Kothi, Ramdhapur, P.S.- Ramdhanpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Mining Department, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The General Manager, Bihar State Mining Corporation Limited, Room No. 164, Vikash Bhawan, New Secretariate, Bailey Road- 800015
4. The Minerals Development Officer, District Mining Office, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar, Advocate
For the Mines	:	Mrs. Kalpana, JC to Spl.P.P.
For the Respondent/s	:	Mr.Gyan Prakash Ojha (GA-7)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 13-07-2023 Heard learned counsel for the petitioner and the learned Spl. P.P. Mines.

2. The present writ petition has been preferred for the following relief:

for the issuance of direction to the respondent authorities to immediately hand over the Amiganj Sand Ghat at Morhat River Gaya Cluster No. 41 as the Ghat was allotted/settled to the petitioner for 3 months and the petitioner duly deposited the settlement amount, royalty, GST, and other statutory amount as directed by the petitioner as also upon a



direction to the respondent authorities to allow the petitioner to execute the work of mining for 3 months from the date of handing the possession of the Amirganj Sand Ghat at Cluster No. 41, Morhat River, Gaya.

3. The simple question that needs consideration is whether when the petitioner firm deposited money pursuant to lease deed signed between the parties for three 'Ghats' for a period of three months and subsequently was allotted only two Ghats, for the same period, now that the respondents failed to allot it third 'Ghat' and the period already expired; whether it is entitled to the refund of the amount that was paid to the respondents for the third Ghat or not.

4. Learned counsel for the petitioner firm submits with the support of the different Annexures that on 3.12.2021, the Authorized Officer of Bihar State Mining Corporation Limited, Bihar, Patna allotted three 'Ghats' for a period of three months namely, Rajan sand ghat, Amirganj sand ghat and Dakhner sand ghat in Morhat River, Cluster No. 41 within its district of Gaya.

5. However, due to pendency of case before the Hon'ble Apex Court in Civil Appeal No. 3661-3662/2020, the mining work was not started and it was only after the order



dated 26.9.2022 by the Hon'ble Supreme Court by which permission was granted for mining of the sand within the State of Bihar, vide letter no. 2430 dated 4.11.2022 (Annexure-2) issued by the General Manager, Bihar State Mining Corporation, Limited, Bihar Patna (Annexure-3 to the petition), it was granted sand mining for the Rajan Sand Ghat and Dakhner Sand Ghat only as the environmental clearance for Amirganj Sand Ghat had lapsed.

6. The contention of the learned counsel for the petitioner is that when admittedly pursuant to the lease deed signed between the parties, the amount for three 'Ghats' were paid to the respondent authorities, in view of the fact that only two 'Ghats' were allotted, it is entitled to the refund of the amount that was paid for the third Ghat (Amirganj Sand Ghat).

7. Mrs. Kalpana, learned Junior counsel to the Special Public Prosecutor Mines with the help of counter affidavit has submitted that the petitioner firm was granted permission to start mining at Rajan Sand Ghat and Dakhner Sand Ghat dated 4.11.2022 and so far as the environmental clearance for the said (Amirganj Sand Ghat) expired on 6.4.2022, the same was not allotted to him.

8. It is her further submission that the petitioner



firm had complete knowledge of the expiry of the environmental clearance for the said 'Ghat' and as such rightly only two 'Ghats' were settled.

9. However, the question here is not of settlement of the two 'Ghats' and or the environmental clearance of the third 'Ghats', rather the return of the payment that was made for the three 'Ghats' for a period of three months and it is their own case (as would reflect from the order/letter dated 4.11.2022) that only two 'Ghats' were allotted for sand mining.

10. In that view of the matter, the prayer of the petitioner raised is just and proper.

11. This writ petition stands disposed of with the direction to the petitioner firm to approach the respondent no.3, General Manager, Bihar State Mining Corporation Limited, Bihar, Patna within a period of four weeks from today with all documents for the redressal of his grievance.

12. The respondent no.3 shall be duty bound to take a decision within next two months from the date of the presentation of the representation after going through the documents on record and if necessary, after giving personal hearing to the representative of the petitioner firm.



13. It is made clear that if the respondent no.3 comes to a conclusion about the refund of the amount, the same shall be paid within the period of next four weeks with statutory interest.

14. The writ petition stands disposed of.

(Rajiv Roy, J)

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