

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1033 of 2023

Prashant Sharan @ Prashant Sharma Son of Ramsnehi Sharan, Resident of
village- Nandan, Police Station-Ghoshi, District- Jehanabad (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Additional Chief Secretary -cum-
Mines Commissioner, Government of Bihar, Patna
2. The Managing Director, Bihar State Mining Corporation Ltd, Patna
3. The Director, Bihar State Mining Corporation Ltd, Patna
4. The District Magistrate-cum-Collector, Gaya
5. The Additional Collector, Gaya
6. The Sub-Divisional Officer, Gaya
7. The Superintendent of Police, Gaya
8. The In-Charge -Cum- S.H.O of Main Police Station, Gaya
9. The Mining Development Officer, Gaya
10. The Inspector Mining, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhijeet Gautam, Advocate Ms. Prakritita Sharma, Advocate
For the Mining	:	Mr. Naresh Dikshit, Spl.P.P Mines Ms. Kalpana, Advocate
For the State	:	Mr. Gyan Prakash Ojha, GA-7

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 24-04-2023 Heard learned counsel for the petitioner and learned
counsel for the Mines Department.

The petitioner has filed the instant application for the
following relief(s):-

*“i. For issuance of writ/s, order/s,
direction/s in the nature of Mandamus, commanding
the respondents, to pass the final order in Mines
Confiscation Case No. 05/2021 with regard to the*



vehicle of the petitioner, which is pending since a long time.

ii. For issuance of writ/s, order/s, direction/s in the nature of Mandamus, commanding the respondents to immediately release the vehicle i.e. JCB bearing Registration No. BR01GJ-8737, Chassis No. BM 1072011669, Engine No. 4H32012020537 seized in connection with Main P.S. Case No. 51 of 2021 dated 23.07.2021 instituted for the offences under section 379 of Indian Penal Code, as well as Rule 11, 39 of Bihar Mineral (Concession, Prevention of Illegal Mining. Transportation and Storage) Rules and MM (DR) Act 1957 and Rule 56(1) and 52(2) B.M. (CPIMTS) Rule 2019 and Section 15 of Environment Protection Act, 1986.

iii. For further issue a direction to pay a suitable compensation to the petitioner because the JCB of the petitioner has been illegally detained and seized by the police and Mining officials without it being involved in any illegal activity.

iv. For further any other relief /s, order/s, direction/s, may deem fit and proper in the facts and circumstances of this case.”

It is submitted by learned counsel appearing for the Mines Department that a copy of the counter affidavit on behalf of respondent nos.4, 9 and 10 has been served on learned counsel for the petitioner and physical as also the electronic copy of the same has been filed. In paragraph nos.8 and 9 of the said counter affidavit it has been stated that final orders have



been passed in Mines Confiscation Case no.5 of 2021 vide order dated 20.2.2023. There is a provision for appeal under Rule 56A of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

Learned counsel for the petitioner submits that fee/penalty having been deposited by the petitioner, the vehicle should have been released as per the provisions of the statute.

Having heard learned counsel for the parties and taking into consideration the contents of the counter affidavit filed on behalf of respondent nos.4, 9 and 10, copy of which has been provided by learned counsel for the petitioner for perusal of this Court, the Mines Confiscation Case no.5 of 2021 having been finally decided by order dated 20.2.2023, this writ application is disposed of with liberty to the petitioner to file an appropriate appeal as provided under Rule 56A of the Act.

The writ application stands disposed of.

At this stage, it is submitted by learned counsel for the petitioner that total penalty having been deposited by the petitioner, the respondents may be directed not to auction the vehicle in question till the decision in the appeal. In response, it is submitted by learned counsel for the Mines Department that as already stated in the counter affidavit, penalty was deposited



after much delay.

In case, the appeal is filed by the petitioner within a period of two weeks from today, the vehicle shall not be auction-sold by the respondent authorities for a period of four weeks from the date of filing of the appeal by the petitioner or till an order is passed in the appeal, whichever is earlier.

It is clarified that the appellate authority shall decide the case on its own merits without being affected by any observations made herein above.

(Partha Sarthy, J)

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