

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5386 of 2024

M/s Mateshwari Construction a Partnership Firm, having its registered office at Mamka Niwas, Chitour Nagar, New Area, Aurangabad, Bihar - 824101, through one of its authorized Signatory, Aditya Singh, aged about 33 years (Male), son of Rabindra Pratap Singh, Resident of Lane No. 10, Euro School, Bank Colony, R.P.S. More, Danapur, P.S. Danapur, District - Patna.

... .. Petitioner/s

Versus

- 1. The Union of India through the Ministry of Environment, Forest and Climate Change, Government of India, Indira Paryawaran, Bhawan, Jorbagh Road, New Delhi- 110003.
- 2. The State of Bihar, through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
- 3. The Director, Mines, Bihar, Patna.
- 4. The District Magistrate-cum-Collector, Bhojpur, Ara.
- 5. The State Level Environment Impact Assessment Authority, through its Member Secretary, 2nd Floor, BELTRON, Baldev Bhawan Road, Shastri Nagar, Patna - 800023.
- 6. The Bihar State Pollution Control Board, Parivesh Bhawan, Patliputra Industrial Area, P.O. Sadakat Ashram, Patna- 800010, through its Member Secretary.
- 7. The Mining Development Officer, Bhojpur, Ara.
- 8. The Assistant Director, Mines, Bhojpur, Ara. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Adv.
Mr. Avinash Shekhar, Adv.
Ms. Abhilasha Jha, Adv.
Ms. Simkan Kumari, Adv.
Mr. Vijay Tiwary, Adv.
Mr. Rohit Singh, Adv.
For the BSPCB-Respondent No. 6 Mr. Shivndra Kishore, Sr. Adv.
For Respondent No. 5 (SEIAA) Mr. Kumar Ravish, Adv.
For the State MR. Standing Counsel-13
For the Mines Mr. Naresh Dikshit, Adv.
Ms. Kalpana, Adv.
For the UOI Dr. Amitesh Kumar, Sr. Counsel(UOI)
Mr. Satyendra Kr. Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL ORDER

6 21-11-2024 Heard the parties.

2. It is an admitted fact that the petitioner M/S
Materswari Construction was the highest bidder of Sand Ghat
No. 20 Area 19 hectares Headquarter Bhojpur for five years. The



Mining Department through letter no. 4723 dated 25.11.2022 issued the letter of intent to the petitioner for completing the formalities as required under Rule 29 of the Mining Rules, 2019 as mentioned in para-6 of the letter of intent.

3. Considering the environmental issues, the Hon'ble Supreme Court issued guidelines vide order dated 10.11.2021 in Civil Appeal No. 3661-3662 of 2020. As per guidelines, fresh DSR was to be prepared by the Mining Department. After preparing fresh DSR, the tender, in question, was published and the petitioner was became successful and the area (Balu Ghats) were allotted to the petitioner for excavation of sand.

4. Mr. Suraj Samdarshi, learned counsel for the petitioner has submitted that a number of formalities are to be completed before starting the excavation as required under Rule 29(A) of the Mining Rules, 2019 and the required formalities consume near a year usually. The petitioner was in process of fulfilling the formalities in the meanwhile, the Mines and Minerals Department allotted those areas to 3rd party which is an admitted fact. It is also an admitted fact that 3rd party started excavation, which continued till September, 2023 though the learned counsel for Mines Department submits that the work of excavation of sand was assigned to 3rd party in accordance with



the order of the Hon'ble Supreme Court as the make shift arrangement.

5. The petitioner got carried out a drone survey of the allotted area, in which, it was detected that some pits with depth more than the permissible limit were found and as per Rules, if anybody excavates sand to the depth more than permissible limit (3 meters) of three meters, he is liable to be penalty and his agreement may also be cancelled, so, it is apprehension of the petitioner that for the act done by the others, he might be penalized. He has also submitted that before starting of the excavation work by the petitioner, a fresh survey should be directed to be conducted by the Department of Environment and Forest in presence of the representatives of the petitioner and Mines Department. The petitioner is ready to bear the cost of expenses of survey work.

6. On the other hand, Mr. Naresh Dikshit, learned counsel for Mines and Minerals Department submits that due to alluvial and fluvial action, 100% replenishment are done to the mined excavated area. He has further submitted that the impugned letter no. 277 dated 15.01.2024 issued by the Assistant Director shows that due to fluvial action, the replenishment used to take place. He has also submitted that the



impugned order is appealable to the Collector under Rule 66 of 2019 to which the learned counsel for the petitioner submits that he is not aggrieved by the impugned order of the Assistant Director. He is still ready to obey the directions of the Assistant Director but only he wants to ascertain the mining potential of the Ghat.

7. The main grievance of the petitioner is that he could not start the excavation because it came to his knowledge that some portion of the area of the allotted Ghats were excavated out excessively ignoring the Mining Rules, 2019.

8. I am of the view that the learned counsel for the petitioner is right in submission that before starting excavation, a joint survey should be done. Accordingly, it is directed that the survey shall be conducted by the expert persons of Department of Environment and Forest in presence of the representatives of both the parties.

9. Accordingly, this writ petition stands disposed of.

10. It is expected that the entire exercise be completed within a period of one month.

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(Nawneet Kumar Pandey, J)

