

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14757 of 2024

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B K Enterprises a proprietorship firm having its office at East Mohan Vigaha, Dalmia Nagar Rohtas, Subhash Nagar, Dehri on Sone, Dehri, P.S. Dehri, District Rohtas through its proprietor Shri Brajesh Kumar Tiwari, aged about 43 years (male), son of Ram Chandra Tiwari, resident of East Mohan Vigaha, Dalmia Nagar Rohtas, Subhash Nagar, Dehri on Sone, Dehri, P.S. Dehri, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.
2. The Principal Secretary cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate cum Collector, Gaya.
5. The Mineral Development Officer, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Shekhar, Adv.
For the Respondent/s	:	Mr. Sita Ram Yadav, G.P. 16 Mr. Yatindra Narayan, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 26-09-2024 Heard Mr. Suraj Samdarshi, learned counsel for the

petitioner and Mr. Naresh Dikshit representing the Spl. P.P.

Mines.

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

*“(i) for issuance of a writ, order
or direction in the nature of certiorari for
quashing memo no. 1436 dated 08.05.2024
(Annexure 11) issued by the Respondent
Collector, Gaya, whereby and whereunder
the security deposited of Rs. 2,22,75,000/-
(Rupees Two Crores Twenty Two Lakhs
Seventy Five Thousand Only) furnished by*



the petitioner for settlement of Gaya Sand Ghat No. 45 (Gaya Lilajan 07/08/09/10/11) has been forfeited under Rule 28(1) of the Bihar Minerals (Concession, Prevention of Illegal Transportation and Storage) Rules 2019 on the ground that the petitioner has not obtained the necessary permission for operation of the sand ghat;

(ii) for issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to refund the security deposit of Rs. 2,22,75,000/- (Rupees Two Crores Twenty Two Lakhs Seventy Five Thousand Only) deposited by the petitioner for settlement of Gaya Sand ghat No. 45 (Gaya Lilajan 07/08/09/10/11), since the contract between the petitioner and the Department of Mines and Geology stands frustrated due to unforeseen events which have occurred after formation of the contract, rendering its performance impossible and fundamentally different from what the parties originally intended;

(iii) this Hon'ble Court may adjudicate and hold that the petitioner cannot be compelled to pay the entire settlement amount when the mineral potential of the sand ghat has been reduced that too for no fault on the part of the petitioner;



(iv) this Hon'ble Court may adjudicate and hold that a sand ghat cannot be settled and allowed to be operated without there is replenishment study of the year 2023 as contemplated under Enforcement & Monitoring Guidelines for Sand Mining 2020?

(v) to award any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case.”

3. Learned counsel for the petitioner submits that though against the said order, the provision of appeal is there, in view of the fact that the Appellate Authority have granted relief to the other similar situate persons, the petitioner straightaway invoked the writ jurisdiction of Patna High Court. He has taken this Court to the memo no. 3491 dated 22.08.2024 (Appeal Case No. 04 of 2024 – Sudheshwar Singh Vs. the Collector Patna & Ors.) as also the memo no. 2516 dated 24.06.2024 passed in Appeal No. 02 of 2024 (Uma Associate Infratech Developers Private Limited Vs. the Collector Rohtas and Ors.) to show that the Appellate Authority chose to grant relief to the said appellants.

4. Learned Spl. P.P. Mines submits that he could have



preferred appeal in time instead a delayed writ petition has been filed and if the petitioner is similarly situate, he could have moved the appellate remedy instead of straghtaway coming to the Court.

5. Learned counsel for the petitioner submits that he will be approaching the Appellate Authority in next one week against the order passed by the Collector, Patna and is further undertaking to pay the statutory interest as envisaged in Article 22(4) of Bihar Minerals (Concession, Prevention of Illegal Transportation and Storage) Rules 2019, (henceforth for short, 'the Rules').

6. Learned counsel for the petitioner apprehends that in the meantime, auction may take place and as such, an early hearing/disposal of the appeal is needed.

7. Since the petitioner has intended to pay the statutory interest, as per the Rule 22(4) of 'the Rules', this Court expects that till the appeal is disposed of, the auction process shall be kept in abeyance .

8. The writ petition stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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