

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2047 of 2023

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M/s Harsh Construction through its proprietor - Sarita Kumari, aged about 36 years, Female, Daughter of Naresh Prasad Yadav, having its registered office at Village - Lohani Bigha, P.O. - Gonawan, P.S. - Nawada, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary-cum-Principal Secretary, Mines and Geological Department, Govt. of Bihar, Patna.
3. The Director, Mines and Geological Department, Govt. of Bihar, Patna.
4. Bihar State Mining Corporation Ltd. through its Managing Director, Room No. 164, Vikash Bhawan (New Secretariat), Bailey Road, Patna - 800015.
5. The Chief Executive Officer, Bihar State Mining Corporation Ltd. Room No. 164, Vikash Bhawan (New Secretariat), Bailey Road, Patna - 800015.
6. The Administrative Officer, Bihar State Mining Corporation Ltd., Room No. 164, Vikash Bhawan (New Secretariat), Bailey Road, Patna - 800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gopal Bohra, Adv.
For the Respondent/s	:	Mr. Gyan Prakash Ojha (Ga7)
For the Mines	:	Mr. Naresh Dikshit, Adv. (Spl. PP)
		Mr. Mr. Utsav Anand. Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 22-08-2024 Heard the parties.

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

(i) for commanding/ directing the respondent Bihar State Mining Corporation Ltd., Patna to refund an amount of Rs. 16,59,446/-(After deducting Rs. 9,21,914/- from the original proportionate amount amounting to Rs. 25,81,360/-) along with statutory interest which has been deposited



by the petitioner as a proportionate amount for mining of sand for further extended period of eight weeks from Cluster -33, Banahi Sand Ghat and Mahuama Sand Ghat of District Gaya in light of direction issued vide Office Order No. 965 dated 31.03.2022 (partially modified vide Memo No. 970 dated 31.03.2022) by the Bihar State Mining Corporation Ltd., Patna pursuant to order dated 31.03.2022 passed by the Hon'ble Apex Court in Civil Appeal No. 3661-3662/2020 and despite depositing the aforesaid amount, the mining of sand was not allowed in absence of environmental clearance after 20.04.2022.

(ii) for a direction to the respondent Bihar State Mining Corporation to make refund the proportionate amount with consequential statutory interest and the cost of men and machinery which has been assembled by the petitioner for extended period of eight weeks.

(iii) For any other relief or reliefs for which the petitioner will be found entitled for in the facts and circumstances of the present case.

3. It is the case of the petitioner that the matter relates to sand ghat Cluster-33, Banahi Sand Ghat and Mahuama Sand



Ghat in the District of Gaya. The petitioner was granted lease for sand ghat cluster-33, Banahi Sand Ghat and Mahuama Sand Ghat in the District of Gaya for the period 01.01.2022 to 31.03.2022 and out of Rs. 53,92,236, he had deposited Rs. 38,58,216 earlier which followed another cheque of Rs. 17,62,827 as the second installment.

4. Learned counsel for the petitioner submits that later, pursuant to the decision of the Hon'ble Apex Court in Civil Appeal No. 3661-366/2020 (Pawan Kumar Vs. State of Bihar), he was further extended period till 31.05.2022 by the letter issued by the Bihar State Mining Corporation Limited (for short 'the Corporation') vide memo no. 08/sand dated 31.03.2022 issued by its General Manager (Annexure-2 to the petition).

5. His case is that though the petitioner deposited the amount for the period 01.04.2022 to 31.05.2022 (the extended eight weeks), after 20.04.2022, he was stopped from doing the mining activities in absence of environmental clearance and this followed the fresh notice by 'the Corporation' on 22.04.2022 for the settlement of the two ghats of cluster no. 33.

6. It is as such his submission that the petitioner is entitled to the refund for the period he was stopped from doing



mining work.

7. This Court has very bitter experience of the respondent-Mining Corporation inasmuch as despite the writ petitions being pending for years, they don't take cognizance of the pendency of the writ cases despite the letters sent by the office of the Special P.P., Mines.

8. In that background, since the matter has remained pending for one and half year and the issue relates to April 2022 when the petitioner was stopped from the mining work and wants its refund, instead of keeping the matter adjourned for another four weeks directing the respondents to file reply, it would be appropriate that the matter is remitted to the respondent no. 4, the Managing Director of 'the Corporation' to decide it afresh.

9. The writ petition is disposed of with a direction to the petitioner to approach the respondent no. 4 within a period of four weeks along with the representation/the documents supporting the said petition. If the same is filed within the next four weeks, the respondent no. 4 is duty bound to look into the matter, go through the records as also give personal hearing to the petitioner and decide the same within a period of next three months.



10. In case, the respondent no. 4 comes to the conclusion that the petitioner is entitled to the refund, the same has to be cleared within a period of next four weeks from the date, he takes a decision.

11. The writ petition stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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