

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1228 of 2024

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Santosh Promoter Pvt. Limited a company incorporated under the Companies Act, having its registered office at 145, Rash Behari Avenue Road, Kolkata 700001 through its Naveen Nayyar, aged about 51 years, son of Sukhdev Raj Nayyar, Resident of 1 Akshay Chatterjee Lane, Haora (M. Corp), P.S.- Malipanchghora, Howrah West Bengal- 711106.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Assistant Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate, Arwal.
5. The District Mining Officer, Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr. Mr. Raghwendra Kumar, SC- 22
For Mines	:	Mr. Naresh Dixit, Spl. P.P.
		Mr. Utsav Anand, Advocate

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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, learned Special P.P. Mines.

2. The petitioner has prayed for the following reliefs:

*(i) to issue an appropriate writ,
order or direction in the nature of
mandamus directing the
Respondents to forthwith make
payment of interest at the rate of*



9% per annum, for the period 01.09.2020 to 22.03.2022, upon the security deposit of Rs. 30,60,000/- tendered by the petitioner for Sand Ghat No. 1 in the District of Arwal in compliance with Clause 7 (iii) of the Tender document pursuant to being declared the highest bidder in the auction conducted for settlement of sand ghats for the period 2020-2024 which security deposit was unreasonably withheld by the Respondents;

(ii) this Hon'ble Court may adjudicate and hold that since the Respondents failed to fulfil their reciprocal obligations under the tender document, viz a viz, obtaining environmental clearance, preparation of mining plan and issuance of work order in favour of the petitioner allowing the



petitioner to commence mining activity at Sand Ghat No. 1 in the District of Arwal, the same amounted to repudiation of contract by the Respondents and therefore petitioner is entitled for payment of interest upon the security deposit unreasonably withheld by the Respondents;

(iii) this Hon'ble Court may adjudicate and hold that since the judgment of this Hon'ble Court dated 16.12.2021 passed in C.W.J.C. No. 2787 of 2020 (Amarnath Singh Vs. The State of Bihar & Ors) has attained finality, the petitioner is entitled to be treated with parity and grant of interest as allowed therein, in light of clause 4 (C) (1) of the Bihar State Litigation Policy 2011;

(iv) this Hon'ble Court may



adjudicate and hold that since the contract between the petitioner and the State of Bihar stood frustrated in light of the judgment dated 14.09.2020 passed by the National Green Tribunal in O.A. No. 40/2020 (Pawan Kumar vs. The state of Bihar) and O.A. Ho. 57 / 2020 (4 Rizwan Vs Union of India) quashing the District Survey Reports prepared in the year 2018 and 2019 for the district of Banka and declaring all actions taken pursuant thereto to be nullity; and also in light of order dated 06.11.2020 passed In O.A. No. 62/2020 and analogous cases directing the Respondents to withhold further actions for settlement of sand ghats, the action of the Respondents in not refunding the security deposit forthwith was



bad in the eyes of law and therefore petitioner is entitled for payment of interest upon the security deposit for the period it was unreasonably withheld;

(v) this Hon'ble Court may further adjudicate and hold that the action of the Respondents in not paying interest on security deposit to the petitioner is bad in law and tantamount to abuse of authority/power vested in them;

(vi) to grant any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.

3. The matter relates to Sand Ghat No.01 in the district of Arwal and the allotment period was 01.09.2020 to 22.03.2022 and the claim of the petitioner is of interest on the security deposit of Rs. 30,60,000/- on the ground despite being the successful bidder. Ultimately, the Sand Ghat was allotted to the earlier settlee.



4. In that background, he got the refund of the security deposit of Rs.30,60,000/- on 22.03.2022 i.e. two years after the same was deposited on 14.01.2020.

5. It is the case of the petitioner that he made a representation before the Managing Director, Bihar State Mining Corporation Limited, Bihar, Patna (Annexure-12 to the petition) but since there was no response, the writ petition.

6. Learned Special P.P. Mines submits that the petitioner should have approached the respondent no.2, the Additional Chief Secretary, Mines and Geology Department, Bihar, Patna and in support of his contention, he has cited the decision of **Umesh Singh Yadav vs. the State of Bihar** (CWJC No. 13717 of 2021) disposed of on 13.01.2022 by a Division Bench by which the petitioner was granted liberty to approach appropriate authority.

7. Mr. Suraj Samdarshi submits that the petitioner shall be approaching the respondent no.2 within two weeks. In case, the petitioner approaches the respondent no.2 in two weeks, he is duty bound to consider the case of the petitioner and pass a comprehensive order within a period of three months from the date the petition is received in his office.

8. Needless to say that if the respondent come to a



conclusion that the petitioner is entitled to the interest, the same has to be cleared in next four weeks from the date an order is passed.

9. The writ petition stands disposed of.

(Rajiv Roy, J)

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