

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23996 of 2018

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Md. Masiha Son of Md. Abdul Haque resident of Mohalla- Laukhana, Police Station- Laukhana, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Minerals, Government of Bihar, Patna.
2. The Joint Secretary, Department o Mines and Minerals, Government of Bihar, Patna.
3. The Director, Mines and Geology, Bihar, Patna
4. The Collector, Madhubani.
5. The Senior Additional Collector- cum Assistant Mining Officer, Madhubani.
6. The Mining Inspector, Madhubani.
7. The Mining Officer, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Advocate. Mr. Mohammad Sufyan, Advocate.
For the State	:	Mr. Gyan Prakash Ojha, GA-7.
For the Mines	:	Mr. Naresh Dikshit, Advocate. Ms. Kalpana, Advocate.
	:	Mr. Brij Bihari Tiwari, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 22-04-2024

Heard Mr. Sanjeev Kumar, learned counsel along with Mr. Mohammad Sufyan, learned counsel appearing on behalf of the petitioner; Mr. Gyan Prakash Ojha, learned GA-7 for the State and Mr. Naresh Dikshit, learned counsel along with Ms. Kalpana and Mr. Brij Bihari Tiwari, learned counsel for the Mines Department.

2. Mr. Sanjeev Kumar, learned counsel along with Mr. Mohammad Sufyan, learned counsel appearing on behalf of



the petitioner submits that against the impugned order contained in Memo No. 409 dated 01.11.2018 passed by the Senior Additional Collector cum Assistant Mining Officer, Madhubani – respondent no.5, the petitioner seeks to file an appeal before the District Magistrate, Madhubani in accordance with the provision of Bihar Minor Mineral Concession Rules, 1972 within a period of two weeks from the date of communication of this order.

3. A counter affidavit has been filed on behalf of respondent nos. 4 to 7 and in Para-16, it has been informed that the petitioner has alternative remedy of appeal.

4. The Constitution has laid the foundation of Articles 48A and 51A for a jurisprudence of environmental protection. Today, the State and the citizen are under a fundamental obligation to protect and improve the environment including forests, lakes, rivers, wildlife and to have compassion for living creatures. Duty is cast upon the Government under Article 21 to protect the environment and the two statutory principles, "which govern the law of environment are : (i) the principles of sustainable development, and (ii) the precautionary principle. In ***M.C. Mehta Vs. Union of India & Ors., (2006) 11 SCC 582***, the Apex Court directed the Monitoring Committee to inspect



the mining activity being carried on in the area in question and report the impact, if any, of continuing mining activity on the environment and the safeguards, if any, adopted to minimise the adverse effects on the environment and any other suggestions relevant to the issue of impact of mining activity on degradation of the environment. In *T.N. Godavarman Thirumulpad (104) Vs. Union of India & Ors., (2008) 2 SCC 222*, the Apex Court held that adherence to the principle of sustainable development is now a constitutional requirement. The courts are required to balance development needs with the protection of the environment and ecology. It is the duty of the State under the Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity.

5. Considering the limited relief sought for on behalf of the petitioner, the District Magistrate, Madhubani, is directed to dispose of the Appeal, strictly keeping in mind the constitutional mandate and the provision of the Mines and Minerals (Development and Regulation) Act, 1957 and Bihar Minor Mineral Concession Rules, 1972, as well as, any violation in terms of lease deed and the governing law, at the time, laid down in **Deepak Kumar etc. Vs. State of Haryana**



and Others, reported in (2012) 4 SCC 629 before proceeding to verify, whether any query has been conducted in the vicinity, relating to the cluster leased out and settled with the petitioner and if it is found that the depletion of environment due to illegal mining has occurred in the area, specific finding is required before holding the penalty order.

6. The Appeal preferred by the petitioner is required to be disposed of within a period of two weeks from the date of its filing considering the fact that the impugned order is dated 01.11.2018 and the writ petition was filed in the year 2018 and is pending since then.

7. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	26.04.2024
Transmission Date	N.A.

