

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2510 of 2025

M/s Shyam Enterprises through its Prop. Sanjeev Kumar, aged about 40 years, Gender- Male, Son of Shayam Sundar Sah, Resident of Village- Laxmipur, Near Gramin Bank Post - Laxmipur, P.S. - Laxmipur, District- Jamui.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary-Cum-Mines Commissioner, Department of Mines and Geology, Government of Bihar, Patna.
3. The Managing Director, Bihar State Mineral Development Co-operation Limited, Govt. of Bihar, Patna.
4. The Director, Department of Mines and Geology, Government of Bihar, Patna.
5. The District Magistrate and Collector, Jamui.
6. The District Mines Officer, Jamui.
7. The Circle Officer, Jamui.
8. The Mines Inspector, District Mines Office, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Manish Kumar, SC-5
		Mr. Prashant Kumar, A.C. to S.C.-5
For the Mines Deptt	:	Mr.Naresh Dikshit, Spl.PP
	:	Mr.Brij Bihari Tiwary, Advocate
For the BSMDCL	:	Mr.Ranjeet Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 24-11-2025

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the Mining Department.

2. The present writ petition has been filed for the
following reliefs:-



“(I) For issuance of writ in the nature of Certiorari for quashing the order dated 23.08.2024 passed by the Collector, Jamui in Mines Appeal Case no. 01/2023 (M/S Shyam Enterprises Vs. The Mines Development Officer, Jamui) whereby and whereunder the statutory appeal filed under section 67 of the Bihar Minerals (Concession, Prevention of illegal Mining, Transportation & Storage) Rules, 2019 in compliance of the order dated 12.05.2023 passed in CWJC No.7246 of 2023, has been rejected with a direction to the Mines Development Officer, Jamui to recover the rest amount of fine.

(II) For quashing original order containing memo no.231 dated 11.02.2023 issued by the Mines Development Officer, Jamui whereby a fine of Rs.3,07,85,359/- (Three Crore Seven Lacs Eighty five Thousand Three Hundred fifty nine) has been imposed upon the petitioner in purported exercise of the power under Rule 56 (ii) of Bihar Minerals (Concession, Prevention of illegal Mining, Transportation & Storage) Rules, 2019.

(III) For issuance of a writ in the nature of mandamus commanding and directing the respondent authority not to recover the fine which has been wrongly assessed and imposed upon the petitioner.

(IV) For issuance of a direction to stay proceeding of recovery if any, in pursuance of the impugned order dated 23.08.2024 passed in Mines Appeal Case no.01/2023 and original order containing memo no.231 dated 11.02.2023.



3. It is the case of the petitioner that the Department of Mines and Geology issued an advertisement for allotment of Sand *Ghat*. The petitioner participated and was selected for allotment of the said Sand *Ghat* up to 30.06.2023. Pursuant thereto, the Bihar State Mining Corporation Ltd. issued a letter of Intent vide Letter No.577 dated 28.11.2021, which the petitioner duly complied with, and thereafter a Work Order was issued in his favour vide Letter No.711 dated 04.12.2021. The petitioner was also granted K-Storage Licence for storing the sand. During operation of the storage unit, the Mines Development Officer seized a truck bearing Registration No. BR-50-G-6985 loaded with 1100 CFT of sand on the basis of a *challan* dated 02.08.2022 issued under K-Licence for 450 CFT. The respondent authorities were under the impression that due to such act of the petitioner, the State Government has sustained revenue loss and the petitioner had violated the MCDR Rules.

4. Thereafter, a show-cause notice was issued to the petitioner and he was directed to submit his reply as to why a fine of Rs. 5,00,000/- should not be imposed. On the same day, another truck bearing Registration No. BR-50-GA-1056 loaded with 1120 CFT sand was seized on the basis of another *challan* issued under the license of the petitioner. Whereupon a second



show cause notice proposing a fine of Rs. 5,00,000/- was served. The petitioner submitted detailed reply and categorically denied any violation of the mining rules.

5. An inspection was carried out and the petitioner was served with another show cause notice dated 27.08.2022 alleging non-maintenance of Register-H, delay in submission of Proforma-1, sand was not covered by tarpolin and the storage site was situated within 20 metres of a metal road instead of the prescribed 50 metres. It is also alleged that only 2,23,245 CFT sand was physically available whereas the departmental portal shown 17,03,200 CFT, showing a shortage of 14,79,955 CFT and a loss of Rs. 7,88,07,604/- sustained by the State.

6. The petitioner was directed to submit reply to the show-cause by 02.09.2022 and a fine of Rs. 10,000/- was also imposed for not maintaining the register-H. On the same day, a demand letter was issued directing him to deposit the Rs.7,88,07,604/- within seven days. However, without awaiting the response of the petitioner to the show-cause, the Mines Development Officer, Jamui issued a letter no.1327 dated 27.08.2022 to the Director, Mines, Department of Mines and Geology, whereby a request was made for immediate deactivation



of K-Storage Licence ID of the petitioner on the departmental portal. This action was taken on the same day as issuance of the show cause notice, which is in violation of the principles of natural justice.

7. A written complaint was also lodged by the Mines Inspector, Jamui before the SHO, Gidhaur Police Station and accordingly, an FIR viz. Laxmipur/Gidhaur P.S. Case No. 290/2022 was registered.

8. It is also the case of the petitioner that he approached the District Magistrate on 02.12.2022 seeking a fresh spot verification as the storage of sand at the storage place was in accordance with the quantity mentioned in the departmental portal. On the basis of said representation, the Mines Development Officer constituted a committee vide letter No. 2210 dated 14.12.2022 directing submission of a report within two days.

9. It is the categorical submission of the petitioner that the inquiry team inspected the site on 15.12.2022 without giving information to him and thereafter prepared a report and submitted the same to the Mines Development Officer, Jamui. On the basis of the said inquiry report, the respondent authorities vide impugned order dated 11.02.2023 imposed a fine of Rs. 3,07,85,359/- on the petitioner and directed him to deposit the fine



amount within three days with the assurance that appropriate relief would be granted to him if he pays the fine amount within time. The petitioner challenged the order dated 11.02.2023 through C.W.J.C. No.7246 of 2023 titles as “*M/S Shyam Enterprises vs. State of Bihar & Ors.*” before this Court and this Court vide order 12.05.2023 disposed of the said writ petition with liberty to the petitioner to avail the remedy of appeal. Accordingly, the petitioner filed an appeal before the Collector, Jamui on 09.06.2023 and the same was dismissed vide order dated 23.08.2024 upholding the original order of recovery dated 11.02.2023.

10. It is the contention of the learned counsel for the petitioner that the Collector, Jamui has failed to comply with the statutory mandate requiring disposal of the appeal within a period of three months. Such non-compliance constitutes a violation of the mandatory provision and vitiates the entire appellate proceeding.

11. It is further contended that the Inquiry Committee never disclosed the methodology for measuring the sand and conducted the inspection in absence of the petitioner and furthermore submitted perfunctory report and ignored the departmental portal entries.



12. It is next contended that the fine imposed upon the petitioner is without any basis and is not supported by reliable documents and has caused heavy financial loss and harassment to the petitioner.

13. I have considered the submissions of the parties and perused the materials available on record.

14. From the counter affidavit submitted by the Mining Department, it does not appear that the petitioner was given notice to appear at the time of the inspection conducted by the Department on 15.12.2022. The quantification of the fine is based on the inquiry report dated 15.12.2022, which itself has been challenged by the petitioner. In my opinion, penalty could have been imposed upon the petitioner only after a proper inquiry conducted in his presence, which is absent in the present case. Moreover, adequate opportunity of hearing was not afforded to the petitioner, which is evident from the facts of the case. Although the petitioner was granted seven days time to file his show cause, the impugned order of penalty was passed on the very same day.

15. Recently, the Hon'ble Supreme Court in the case of *Krishnadatt Awasthy v. State of M.P. & Ors.*, reported as (2025) 7 SCC 545 has emphasized on the imperativeness of



principles of natural justice, particularly, before an administrative authority acting as a quasi judicial function and has held as under:-

“43. The opportunity of hearing is considered so fundamental to any civilised legal system that the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds [Olga Tellis v. Bombay Municipal Corpn., (1985) 3 SCC 545].

44. It has been argued before us that if the failure to provide hearing does not cause prejudice, observing the principle of natural justice may not be necessary. In this context, a three-Judge Bench of this Court in *S.L. Kapoor v. Jagmohan* [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379] speaking through Chinappa Reddy, J. considered such arguments to be “pernicious” and held that “[t]he non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary”. The Supreme Court, however, has drawn out an exception where “on the admitted or indisputable facts only one conclusion is possible, and under the law only one penalty is permissible, then the Court may not compel the observance of natural justice” [*Swadeshi Cotton Mills v. Union of India*, (1981) 1 SCC 664 : (1981) 51 Comp Cas 210; *Aligarh Muslim University v. Mansoor Ali Khan*, (2000) 7 SCC 529 : 2000 SCC (L&S) 965].



45. *Professor I.P. Massey [I.P. Massey, Administrative Law (8th Edn., 2012).] has commented on this shift as under:*

“Before the decision of the highest Court in S.L. Kapoor v. Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379], the rule was that the principles of natural justice shall apply only when an administrative action has caused some prejudice to the person, meaning thereby that he must have suffered some “civil consequences”. Therefore, the person had to show something extra in order to prove “prejudice” or civil consequences. This approach had stultified the growth of administrative law within an area of highly practical significance. It is gratifying that in Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379], the Court took a bold step in holding that a separate showing of prejudice is not necessary. The non-observance of natural justice is in itself prejudice caused. However, merely because facts are admitted or are undisputable it does not follow that the principles of natural justice need not be observed.”

46. *In State Bank of Patiala v. S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717], the Supreme Court observed that where an enquiry is not convened by any statutory provision and the only obligation of the administrative authority is to observe the*



*principles of natural justice, the court/tribunal should make a distinction between a total violation of the rule of fair hearing and violation of the facet of that rule. In other words, a distinction must be made between “no opportunity” or “no adequate opportunity”. **In the case of the former, the order passed would undoubtedly be invalid and the authority may be asked to conduct proceedings afresh according to the rule of fair hearing. But in the latter case, the effect of violation of a facet of the rule of fair hearing has to be examined from the standpoint of prejudice.***

47. In *Dharampal Satyapal Ltd. v. CCE [Dharampal Satyapal Ltd. v. CCE, (2015) 8 SCC 519 : (2015) 33 GSTR 1]*, this Court dealt with the prejudice question as under: (SCC p. 540, para 42)

“42. So far so good. However, an important question posed by Mr Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural



justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be considered at a later stage and such things cannot be presumed by the authority. This was so held by the English Court way back in the year 1943 in General Medical Council v. Spackman [1943 AC 627 (HL)]. This Court also spoke in the same language in Board of High School & Intermediate Education, U.P. v. Chitra Srivastava [Board of High School & Intermediate Education, U.P. v. Chitra Srivastava, (1970) 1 SCC 121]”

48. In a more recent decision in State of U.P. v Sudhir Kumar Singh [State of U.P. v. Sudhir Kumar Singh, (2021) 19 SCC 706] , the position of law was summarised as under: (SCC pp. 748-49, para 42)

“42. ...42.1. Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

42.2. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.



42.3. No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

42.4. In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

42.5. The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.” (emphasis supplied).

16. It is a cardinal principle of law that no one should be condemned before being heard, which is also an integral part of the principles of natural justice. Considering the aforesaid decision of the Hon’ble Supreme Court in the case of **Krishnadatt Awasthy (supra)**, it is clear that the principles of natural justice



must be adhered to strictly. The doctrine of *audi alteram partem* has three basic essentials. *Firstly*, a person against whom an order is required to be passed or whose rights are likely to be affected adversely, must be granted an opportunity of being heard. *Secondly*, the authority concerned should provide a fair and transparent procedure and *lastly*, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.

17. In the present case, it appears from the record that the inspection was conducted behind the back of the petitioner and therefore, all subsequent orders based upon the inspection report are *non est* and cannot be held to be legal.

18. Accordingly, the impugned original order dated 11.02.2023 and the appellate order dated 23.08.2024 are hereby quashed and set aside. The matter is remitted back to the competent authority, who shall conduct a fresh inspection after giving due information to the petitioner regarding the date and time of such inspection. After the inspection is completed in presence of the petitioner, a copy of the inspection report shall be handed over to him and thereafter, a proper show cause notice shall be issued to the petitioner, and he shall be granted fifteen days' time to file his reply to the show-cause. Upon submission of



the reply, the petitioner shall be afforded an opportunity of hearing, and the authority shall pass an order in accordance with law, only after hearing the petitioner. The entire exercise should be completed by the competent authority within a reasonable period.

19. With the aforesaid observations and directions, the writ petition stands allowed.

(Sandeep Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2025
Transmission Date	

