

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7404 of 2022

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Vishal Kumar Son of Uday Shankar Singh Resident of Ward No.7, Prayag Tola, Village, P.O. and Barahia, District- Lakhisarai.

... .. 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 Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate, Jamui.
5. The District Mining Officer, Jamui.
6. Bihar State Mining Corporation Limited through its General Manager, Room No. 164, Vikas Bhawan, (New Secretariat), Bailey Road, Patna 800015.
7. The Administrative Officer, Bihar State Mining Corporation Limited, Room No. 164, Vikas Bhawan, (New Secretariat), Bailey Road, Patna 800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi
For the Respondent/s : Mr. Gyan Prakash Ojha (Ga 7)

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 28-01-2025 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Mines Department.

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

“(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing letter no. 429 dated 25.01.2022 (Annexure 5) issued by the Respondent



Administrative Officer, whereby the earnest money of Rs. 35,40,895/- deposited by the petitioner for participating in e-auction of Cluster 25 sand ghats in the district of Jamui in furtherance of Tender bearing reference no. 04/2021 – 22 dated 28.11.2021 floated by Bihar State Mining Corporation Limited, has been forfeited.

(ii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondent Bihar State Mining Corporation to refund the earnest money of Rs. 35,40,895/- deposited by the petitioner for participating in e-auction for Cluster 25 Sand Ghats in the district of Jamui in furtherance of Tender bearing reference no. 04/2021-22 dated 28.11.2021 floated by Bihar State Mining Corporation Limited.

(iii) The Hon'ble Court may further adjudicate and hold that the earnest money deposited for participating in a tender cannot be forfeited without issuance of an prior written show cause and without there being an express enabling provision in this regard in the tender document.

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

3. Learned counsel for the petitioner submits that the



State Mining Corporation Selection of sand in the district of Jamui vide Re-tender notice reference no. 4 of 2021-2 dated 28.11.2022.

4. Learned counsel for the petitioner submits that originally the last date of auction was 12.12.2021 and the petitioner was interested in participating in the tender process and as per the tender notice petitioner deposited Rs. 35,40,895/- for the earnest money for the reserve price for cluster 25. Learned counsel further submits that the technical bid was open on 06.12.2021 and the petitioner was declared successfully in the technically bid. He further submits that as per the tender notice the e-auction of Cluster 25 in Jamui was held on 12.12.2021 but the respondent authority has preponed the same and open on 10.12.2021 and on that ground the petitioner has not participated in the financial bid of the tender. He further submits that the petitioner has moved before the authority concerned for return the earnest money which was deposited by the petitioner in tune of Rs. 35,40,895/- but the authority has not returned the amount and rejected the claim of the petitioner vide letter no. 429 dated 25.01.2022 (Annexure 5) of the writ petition.

5. A counter affidavit has been filed on behalf of the



Mines Department submits that the petitioner has informed telephonic on 09.12.2021 about the preponement of the financial auction bid but despite of that he is not participated in the same.

6. Learned counsel for the petitioner has relied upon a judgment passed by a coordinate Bench of this Court in CWJC No. 7519 of 2022 by which coordinate Bench of this Court has directed the authority concerned to return the amount if the petitioner has not participated in the financial bid and the same proposition has been reiterated in the CWJC No. 1791 of 2024 which was passed on 29.10.2024.

7. In the aforesaid Annexure 5, the order dated 25.01.2022 is hereby set aside and the Respondent no. 2 is directed to return the amount of the petitioner to a tune of Rs. 35,40,895/- within a period of four weeks from the date of production of copy of this order.

8. With the aforesaid observation/direction, the writ petition is allowed.

(Rajesh Kumar Verma, J)

Ranjeet/-

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