

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8473 of 2023

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M/s Siyaram Construction through its partner Amit Kumar, Gender-Male, aged about 40 years, S/o Late Birendra Singh, Resident of Lakhibagh, P.s.-Muffasil, Manpur, District Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary-cum-Commissioner and Mines Geology Department, Bihar, Patna.
2. The General Manager, BSMC, Ltd.
3. The Director Mines-cum-CEO, BSMC, Ltd.
4. The Administrative Office BSMC, Ltd.
5. The Mining Development Officer, Gaya.
6. The District Transport Officer, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shambhu Narayan Singh, Advocate
For the State	:	Mr.Gyan Prakash Ojha (GA-7)
For the B.S.M.C.	:	Mr. Ranjeet Kumar Pandey, Advocate
For the Mines Dept.	:	Mr. Naresh Dikshit, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 02-12-2025

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

2. Mr. Naresh Dikshit, learned counsel for the Mines Department has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **Rikhab Chand Jain** versus **Union of India and Others** reported in **2025 SCC Online SC 2510** and submitted that there is an alternative remedy of appeal and



therefore, this writ petition should not be entertained on the ground of alternative remedy.

3. Learned counsel for the petitioner has submitted that since the principle of natural justice has not be followed the present writ petition of the petitioner is maintainable and he cannot be asked to go in appeal.

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

“1. For issuance of an appropriate writ to quash the order dated 06.03.2022 (Annexure-2) passed by respondent No.-2 vide letter No.-398 to the previous concession holder of Cluster-61 (Sobh Sand Ghat), Gaya i.e. in the name of Dhiraj Kumar by which penalty of Rs. 01,81,72,195/- has been imposed on the petitioner under rule 56(2) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 Amended 2021 for illegal generation of E-Challan through his User ID by which 13663.77 MT of sand was illegally excavated from other places and subsequently excavated sand was sold which comes under the ambit of illegal Mining and also caused damage to the environment.

ii. For issuance of an appropriate writ for direction to the respondent authorities to give permission for mining on Cluster-61 (Sobh Sand Ghat), Gaya for further 26 days because the petitioner had having permission of mining on the said Ghat for the period of 01.01.2023 to 31.03.2023, but vide annexure-01 the User I.D of the petitioner was on blocked by the respondents 06.03.2023 and after that the petitioner did not do any mining operation on the said Ghat since 06.03.2023 till 31.03.2023 which caused heavy financial loss to the petitioner or an alternative the respondent authorities to refund the amount of 26 days mining which has already been deposited to the respondent authorities by the petitioner.



4. That the Bihar State Mining Corporation (hereinafter referred as BSMC) had published a tender for selection of contractors for operation of sand Ghats/Cluster in the District of Gaya in year 2022 in which petitioner's firm namely "M/s Siyaram Construction" had participated in a tender process for sand Ghats bearing cluster 61 Gaya.

5. That the reserve price of cluster 61 Gaya was Rs. 54,96,168.00/- against which petitioner's firm had quoted 60,45,785.00/- and petitioner's firm declared successful bidder consequently a work order was issued vide letter No. 25 dated 04.01.2023 and subsequently on 06.01.2023 the petitioner started mining on the Cluster-61 Sobh Sand Ghats, Gaya.

6. That after deposit of the first installment by the petitioner's firm, mining activities and sell of sand was started. Subsequently petitioner's firm also deposited the second installment of royalty.

7. That all of sudden on 06.03.2023 the user ID of the petitioner was arbitrarily blocked by the respondent corporation and after enquiry on 13.03.2023 the petitioner came to know that vide letter No. 398 dated 06.03.2023 issued to one Dhiraj Kumar who was the previous concession holder of the said Sand Ghats, the User ID of the petitioner have been blocked for the allegation by Misusing his User ID illegally extracted 13,663.77 MT of sand from other place and for that Rs. 1,81,72,195/- has been imposed to him and also petitioner was directed to deposit the same within 24 hours in the account of respondent corporation.

8. That annexure No. 02 issued by respondent No. 02 in which it is stated that a enquiry team went to the cluster-61 sobh sand Ghat, Gaya for inspection on 26.02.2023 and 27.02.2023. The said inspection conducted in absence of petitioner without giving any notice to him.

9. That the above stated inspection was conducted in most illegal manner which resulted into the submission of illegal enquiry report to the corporation and thereafter the petitioner was penalized and his User ID was blocked and the petitioner further directed to pay Rs. 1,81,72,195/- as penalty imposed to the petitioner.



10. That on 13.03.2023 the petitioner gave representation to respondent No. 02 against the arbitrary action of above said inspection team with regard to his blocked User ID which was blocked by the corporation without giving any information to the petitioner but no action has been taken by the respondent authorities, itself shows grave violation of natural justice by the hand of respondent authorities.

11. That on 14.03.2023 the petitioner submitted a detailed explanation to respondent No. 01 in regard to allegation of so-called irregularities by the hand of the petitioner but till date no action has been taken by the respondent authorities. This resulted in the infringement petitioner's fundamental right.

12. That furthermore, insofar as Rule 56 is concerned, it is submitted that the same can be invoked only when minerals are excavated without any mineral concession. It is not the case of the BSMC that the petitioner has excavated sand without any valid authority. Hence, respondents have wrongly invoked Rule-56.

13. That on 26.02.2023 and 27.02.2023 the inspection team mechanically and casually inspected the cluster-61 sobh sand Ghat, Gaya and wrongly came to a conclusion that mining has been done by the petitioner on other place instead of allocated area of cluster-61. More so inspection team did not make any communication to the petitioner for assuring the petitioner's presence during inspection and arbitrarily submitted a report caused imposition of Rs 1,81,72,195/- as penalty and respondent corporation also did not take any step on the representations filed by the petitioner for a fresh inspection on cluster-61 Sobh Sand Ghat, Gaya in his presence only to reveal the reality.

14. That the casual approach of the respondents be easily determined from undisputed fact that impugn letter has been issued in the name of the licensee against whom concession license was issued prior to the issuance of concession license in the favour of petitioner.”

5. The Mines Department has filed its counter affidavit and has submitted that the impugned order should not be interfered



as it is based on the inspection report and the penalty imposed is just and proper.

6. I have considered the submissions made on behalf of the parties and from perusal of the records, it appears that the ex-parte inspection was done on 26.02.2023 and 27.02.2023 and thereafter the penalty has been calculated. The petitioner was not asked to be there at the time of inspection i.e. the inspection was not done in presence of the petitioner or his representative. Thereafter, no show-cause was given to the petitioner and the petitioner has not been heard before the imposition of such a huge penalty.

7. In my opinion, the inspection should have been done in presence of the petitioner or his representative. Moreover, after the inspection no show-cause has been issued to the petitioner and the petitioner has not been heard before the impugned order imposing penalty was passed.

8. In these circumstances, this application is allowed and the order dated 06.03.2023 by which penalty of Rs. 1,81,72,195/- has been imposed is, hereby, quashed and the inspection is held to be illegal.

9. This application stands allowed with liberty to the State that in case it wants to proceed against the petitioner afresh



then it shall be done from the stage of inspection in accordance with law.

(Sandeep Kumar, J)

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AFR/NAFR	NA
CAV DATE	NA
Uploading Date	03.12.2025
Transmission Date	

