

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8293 of 2025

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Md. Saidur @ Saidur Son of Basiruddin, Resident of Village Basantpur,
Kishunpur Sakarigali Kala Diyara, P.S. Amdabad, District Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Department of Mines Government of Bihar, Patna.
2. The District Mining Officer Purnea, District Purnea.
3. The District Magistrate, Purnea District Purnea.
4. The Sub-Divisional Officer, Baisi, District Purnea.
5. The Superintendent of Police, Purnea, District Purnea.
6. The S.H.O. P.S. Dagarua, District Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Virendra Kuar, Advocate
For the Respondent/s : Mr. Government Pleader (18)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 01-11-2025

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

2. This writ petition has been filed for issuance of
an appropriate writ/s, order/s, or direction/s to the respondents
for release of the J.C.B bearing Registration No. BR-11G-D
2438, Chassis No. RAJ3DXXTJ02833593, Engine No.
H00259828 in favour of the petitioner, as the same has been
seized by the order of the respondents authority i.e., the District
Mining Officer, Purnea.



3. The brief facts of the case are that the petitioner is a registered owner of the J.C.B bearing registration no. BR-11-GD 2438 and its Chassis No. RAJ3DXXTJ02833593 and Engine No. H00259828 and the same was being used by the petitioner for commercial activities. On 24.04.2025, the vehicle of the petitioner was being used for lifting the soil/earth from the *raiya* land of one Sk. Basir Ahmad under Khata No. 112, Khesra No. 242 Area 1.95 Acre, village Barsauni, P.S. Dagarua, District Purnea. On the same day, the vehicle of the petitioner was seized by the Dagarua police on the order of Mining Officer, Purnea.

4. The learned counsel for the petitioner submits that on 30.04.2025, a challan was issued by the Transport Department under the signature of Dealing Assistant, Purnea by which a penalty amount of Rs. 1,79,849/- (One Lac Seventy-Nine Thousand Eight Hundred Forty-Nine only) was imposed on the petitioner for the reasons that the vehicle of the petitioner was being utilized without any documents and the petitioner has already deposited the said amount i.e., Rs. 149369 (one lac forty-nine thousand three hundred and sixty-nine only) + Rs. 30,480 (thirty thousand four hundred eighty only).

5. The learned counsel for the petitioner further



submits that the vehicle of the petitioner is lying in open sky in the Campus of Dagarua Police Station, District Purnea and because of the same fact the value of the vehicle is deteriorating by each passing day and because of which the government is also facing revenue loss.

6. The learned counsel for the petitioner submits that the Dagarua police wrote a letter *vide* Gyapank No. 1578 dated 25.04.2025 to the District Mining Officer, Purnea for seeking direction to release the vehicle of the petitioner after due verification but in spite of seeking the aforesaid direction by the police officer, the Mining Officer has failed to give directions to release the vehicle of the petitioner and due to the inaction of the respondent no. 2, the value of the vehicle is deteriorating every day. He further submits that even when the vehicle of the petitioner was not being used in any Mining activities yet on the direction of the District Mining Officer, Purnea, the Dagarua Police seized the vehicle of the petitioner.

7. The learned counsel for the petitioner has further submitted that one interlocutory application has been filed for addition of prayer in the main writ petition for quashing the letter No.408 dated 21.05.2025 issued by Mineral development Officer, Purnea by which a compounding fee/penalty of Rs.10



lacs has been imposed for illegal excavation and transportation of soil/earth by the vehicle in question. However, the learned counsel submits that the Dagarua Police forcibly took away the vehicle of the petitioner without lodging an F.I.R. and preparing a seizure list, even when the vehicle of the petitioner was not used in any mining activities rather the same was being used in leveling the earth of the *raiya* land of Sk. Basir for plantation of Makhana.

8. The learned counsel for the petitioner further submits that the vehicle of the petitioner has been seized on false and fictitious allegation as the vehicle has a registration number BR-11-GD 2438.

9. Lastly the learned counsel for the petitioner has submitted that the aforesaid penalty order is illegal as the same has been issued without hearing the petitioner and that there is no evidence that the vehicle of the petitioner was used in illegal mining. Furthermore, the authority which has passed the penalty order, has relied upon the enquiry report dated 25.04.2025 submitted by the Mining Inspector, who has himself stated therein that it is not clear as to whether the land in question is a private or a government land and before submitting the aforesaid enquiry report the petitioner was neither given a notice



nor was given an opportunity of being heard. Moreover, the enquiry officer suggested that detailed information regarding the J.C.B. of the petitioner can be taken from the Sub-Divisional Officer, Baisi. Subsequently, in view of the aforesaid suggestion the Senior Deputy Collector cum In-charge Mineral Development Officer, Purnea sent a letter to Sub-Divisional Officer, Baisi *vide* memo no.325 dated 07.05.2025 to furnish evidence regarding utilization of the vehicle of the petitioner in illegal mining but even before submitting the said enquiry report, the penalty order was passed on 21.05.2025 imposing the penalty mentioned above on the petitioner, although later the Sub Divisional Officer, Baisi submitted enquiry report *vide* Letter No.1264 dated 29.05.2025 without led evidence.

10. The respondents have filed their counter affidavits in which they have reiterated the facts of the case and have vehemently opposed the prayer made by the petitioner.

11. I have heard and considered the submissions of the parties.

12. 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. The orderly functioning of the process of judicial review requires that the grounds upon which the administrative agency acted, be clearly disclosed and adequately sustained.

13. The Constitution Bench of the Hon'ble Supreme Court in the case of *S.N. Mukherjee v. Union of India, reported as (1990) 4 SCC 594*, while considering one of the questions, whether there is a general principle of law which requires an administrative authority to record the reasons for its decision, had held as under: -

39. The object underlying the rules of natural justice "is to prevent miscarriage of justice" and secure "fair play in action". As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the



administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U.S.A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.

40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

14. Summarizing the principles of law, the Hon'ble Supreme Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan, reported as (2010) 9 SCC 496***, had held as under -

“46. The position in the United States has been indicated by this Court in S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] in SCC p. 602, para 11 : AIR



para 11 at p. 1988 of the judgment. This Court held that in the United States the courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as “the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review”. In S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] this Court relied on the decisions of the US Court in Securities and Exchange Commission v. Chenery Corpn. [87 L Ed 626 : 318 US 80 (1942)] and Dunlop v. Bachowski [44 L Ed 2d 377 : 421 US 560 (1974)] in support of its opinion discussed above.”

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial,



quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component



of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

15. Considering the law laid down by the Hon’ble Supreme Court in the case of ***S.N. Mukherjee (Supra)*** and in the case of ***Kranti Associates (P) Ltd (Supra)***, this Court is of the considered opinion that this Court ought to ensure procedural propriety, fairness and adherence to the Principles of Natural Justice. The process for arriving at a decision is equally significant as the decision itself and the notice should enable him to make his representation. In the absence of a notice of this kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is essential that a party should be put on notice of the case before any adverse order is passed against him. Also, the opportunity of being heard should be real, reasonable and effective. An adverse order without affording an opportunity of hearing would be totally against the Principles of



Natural Justice. The order imposing penalty is hereby quashed. The matter is remitted back to the authorities concerned for fresh consideration in accordance with law after serving due show cause notice.

16. In the interest of justice, since no fruitful purpose will be served in keeping the vehicle of the petitioner seized and also considering the law laid down by the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai vs. State of Gujarat* reported as *2002 (10) SCC 283* and also the decision of the Division Bench of this Court in *L.P.A. No.1637 of 2015 (Baleshwar Roy vs. The State of Bihar & Ors.)*, the vehicle of the petitioner bearing registration No. BR-11GD-2438 be released in favour of the petitioner subject to the following conditions:-

- i. *The petitioner shall furnish a security of Rs 10 Lakh to the satisfaction of the concerned authority before whom this matter is remitted back.*
- ii. *The petitioner shall furnish all the necessary papers / documents of ownership before the concerned/competent authority;*
- iii. *The petitioner shall undertake, in writing, that the vehicle, in question, shall neither be alienated nor be transferred/sold in favour of any third party during the pendency of the proceeding and that the truck in question shall be*



produced as and when called upon or required in the proceeding or otherwise;

iv. If any jurisdictional objection is taken by the petitioner, that shall also be considered by the authority concerned. The petitioner will also cooperate with the authorities till the final disposal of the proceeding.

17. With the aforesaid observation and direction,
this writ stands allowed.

(Sandeep Kumar, J)

Shishir/-

AFR/NAFR	NAFR
CAV DATE	N/A
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