

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12456 of 2023

M/s Uma Associates A partnership firm registered under the Partnership Act 1872, having it office at S 20/56-10-2F, 2/3 Sonal Sadan, Mall Road, Cantonment, Varanasi, Uttar Pradesh, through its partner Anand Singh, aged about 49 years (male), son of Ram Gopal Singh, Resident of S 20/56-10-2F, 2/3 Sonal Sadan, Mall Road, Cantonment, P.S. Cant. District Varanasi, Uttar Pradesh

... .. 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 District Magistrate, Rohtas.
4. The Mineral Development Officer, Rohtas.
5. The Bihar State Mining Corporation Limited, Through its Managing Director, Room No. 164, Vikas Bhawan, (New Secretariate), Bailey Road, Patna 800015.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha, G.A.-7

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-02-2025

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

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

(I) To issue an appropriate writ, order or direction in the nature of certiorari quashing letter no 1862 dated 16.08.2023 issued by the Respondent Mineral Development Officer, Rohtas



whereby and whereunder the petitioner has been directed to show cause as to why penalty under Rule 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining. Transportation & Storage) Rules, 2019 may not be levied for allegedly excavating sand from outside the permissible environment clearance area at Shankarpur A sand ghat.

(II) During pendency of this writ application, this Hon'ble Court may direct the Respondents not to suspend the generation of e-transit challans required for transportation of sand and /or take any other coercive steps against the petitioner.

(III) This Hon'ble Court may further adjudicate and hold that letter No.1862 dated 16.08.2023 issued by the Respondent Mineral Development Officer, Rohtas is bad in the eyes of law since no penalty can be levied under Rule 56 of Bihar Minerals (Concession, Prevention of Illegal Mining. Transportation & Storage) Rules, 2019. upon a valid settlee.

(IV) This Hon'ble Court may further adjudicate and hold that Respondent Mineral Development Officer, Rohtas is not the competent authority to issue a show cause and levy penalty upon a valid settlee under Rule 30 and 47 of the Bihar Minerals (Concession, Prevention of Illegal Mining. Transportation & Storage) Rules, 2019.



(V) This Hon'ble Court may further adjudicate and hold that letter no. 1862 dated 16.08.2023 is bad in the eyes of law since the petitioner has not been given the inspection reports.

(VI) 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 earlier the petitioner has moved before this Court in CWJC No.3400 of 2023 and after hearing the parties the Hon'ble Court has been pleased to allow this writ application vide order dated 09.05.2023 with some observation and paragraph Nos.8 and 9 which are being reproduced below:

“8. On perusal of the said order, the Court does not find that either the inspection by the so called departmental team was carried out in presence of the petitioner, whether the copy of the inspection report was provided to the petitioner or that proper opportunity to show-cause was issued to the petitioner prior to passing the order of penalty. In view of these facts, in the opinion of the Court the



order of penalty dated 24.2.2023 issued under the signature of the Mineral Development Officer, Rohtas, Sasaram, is not sustainable and is hereby quashed, with liberty to the respondents that if so advised, they will be at liberty to proceed afresh in accordance with law.

9. The writ application stands allowed with the above observations.”

4. Learned counsel for the petitioner submits that pursuant to the aforesaid order the petitioner has received a show cause dated 16.08.2023 without annexing the inspection report.

5. Learned counsel for the Mines Department has raised preliminary objection with respect to the maintainability of the present writ application and submits that the Department has issued only show cause to the petitioner and without giving reply to the show cause the petitioner has approached this Court and even it appears from the show cause that the petitioner is required to be heard before the authority concerned but he has not appeared before the authority concerned.

6. In view of the aforesaid, this writ application stands disposed of with liberty to the petitioner to file a reply to the



show cause dated 16.08.2023 (Annexure-7)and raise all the
issues as he deems fit and proper in the present case.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.02.2025
Transmission Date	NA

