

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17381 of 2017

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M/s Champion Group Of Company Son of Rameshwar Singh, Resident of
Village-Baghni, P.S.-Mohania, District-Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Bihar, Patna.
3. The Principal Secretary, Mines and Geology, Bihar, Patna.
4. The Principal Secretary, Department of Environment and Forest, Bihar,
Patna.
5. The District-Magistrate, Kaimur.
6. The Assistant Director, Mines and Geology, Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Advocate
For the State	:	Mr. AC to Ex.AAG-6 In-charge AAG-5
For the Mines	:	Mr. Naresh Dikshit, Advocate Ms. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL ORDER

3 17-06-2025 Heard the parties.

2. The agreement in between Department of Mines and the petitioner has never been in dispute. Under the said agreement the petitioner has been granted settlement for extraction of sand for a period of five years w.e.f 01.01.2015. Clause-23 of the agreement binds the petitioner with the terms and conditions of the advertisement issued in the light of the notification of the Mines Department dated 22.7.2014 and has



been effective for a period of five years with effect from 01.01.2015. The payment schedule is given at paragraph no.12 of the tender, which shows that of the bid amount, the petitioner would have to pay 50% thereof by 15th of December of each year followed by deposit of second installment of 25% by 15th of April the following year and the balance deposit of 25% on or before 15th of September. For the period 2015, there was no dispute between the parties because there was no disturbance in extraction of sand and the petitioner made his deposit in terms of the agreement. The petitioner's grievance arose when an obstruction to the sand mining came into existence by virtue of advisory issued by the State Level Environment Impact Assessment Authority, Bihar by their dated 4.3.2016 whereby a restraint was issued for sand mining during the months of July, August and September and which advisory was mechanically accepted by the Mining Department which led to issuance of a restraint order bearing No. 892 dated 01.07.2016 issued by Mining Inspector, Kaimur whereby the petitioner was restrained from operating the mines for the months of July, August and September. Despite the issuance of restraint order dated 01.07.2016 the petitioner was made liable to pay the third installment without extraction of the sand during the months of



July, August and September.

3. Being aggrieved with this action the petitioner preferred a writ application before this Court bearing CWJC No.14619 of 2016. The said writ application was heard at length and was disposed of on 09.09.2016 (Annexure-5). The operative portion of the order dated 09.09.2016 passed in CWJC No.14619 of 2016 is reproduced herein below for needful.

“Having heard learned counsel for the parties and considering the nature of grievance raised in this writ petition, I deem it fit and proper to dispose of the writ petition with a liberty to the petitioner to raise his grievance as suggested by Mr. Sinha, learned counsel for the Mining Department before the District Magistrate, Kaimur and who shall consider and dispose of the same in accordance with law and with opportunity of hearing to the petitioner, by speaking order and considering the nature of the grievance raised, an expeditious disposal preferably within a period of four weeks from the date of filing of the application would serve the purpose.

It goes without saying that the deposit of the third installment would be subject to the disposal of the grievance



raised by the petitioner, by the District Magistrate, Kaimur.”

4. In light of the aforesaid liberty granted to the petitioner to raise his grievance before the District Magistrate, Kaimur, the petitioner submits that a representation was filed by the petitioner, which was numbered as Mines and Geology Case No.1/2016-17 and the date of first hearing was fixed on 11.11.2016. On 11.11.2016 the Court of District Magistrate, Kaimur was not available and on the next date also the court of District Magistrate was not available. Thereafter, without hearing the petitioner the District Magistrate, Kaimur was pleased to reject the application/representation of the petitioner on 07.07.2016 (Annexure-6), which has been impugned in the present writ petition.

5. The sum and substance of the argument advanced by learned counsel for the petitioner that the impugned order dated 07.07.2017 passed by District Magistrate, Kaimur is in violation of the principles of natural justice and also in violation of the earlier order of this Court dated 09.09.2016 passed in CWJC No.14619 of 2016 by which this Court had specifically directed the District Magistrate, Kaimur to consider the representation of the petitioner and dispose of the same in



accordance with law after giving opportunity of hearing to the petitioner, by passing a speaking and reasoned order. The petitioner, therefore, prays that the impugned order passed by the District Magistrate, Kaimur be set aside and appropriate direction be issued to the District Magistrate, Kaimur to decide the representation of the petitioner afresh after giving opportunity of hearing to the petitioner, by passing a reasoned and speaking order. The petitioner further prays that necessary direction may be given to the District Magistrate, Kaimur to decide the representation of the petitioner within a fixed period of time.

6. Learned counsel appearing for the Mines Department submits that the impugned order dated 07.07.2017 passed by the District Magistrate, Kaimur is in accordance with law and it has been passed after giving opportunity of hearing to the petitioner. However, from perusal of the counter affidavit filed by the Department of Mines, it does not appear that any evidence has been brought on record to controvert the specific contention of the petitioner made in paragraphs-24 and 25 of the writ application wherein the petitioner has specifically stated that on two dates the petitioner appeared before the District Magistrate, Kaimur who did not hold court on those two dates



and thereafter he straightaway passed the impugned order. The respondents Mines Department has not brought any documents on record to demolish this contentions made by the petitioner.

7. Under the aforesaid facts and circumstances this Court is of the view that the impugned order dated 07.07.2017 (Annexure-6) passed by the District Magistrate, Kaimur has been passed in violation of principle of natural justice and also in violation of the previous order dated 09.09.2016 passed in CWJC No.14619 of 2016 and hence the same is fit to be set aside.

8. The impugned order dated 07.07.2017 passed by the District Magistrate, Kaimur (Annexure-6) is therefore set aside and the District Magistrate, Kaimur is hereby directed to dispose of the representation of the petitioner afresh by giving opportunity of hearing to the petitioner.

9. The final order which would be passed by the District Magistrate, Kaimur should be a reasoned and speaking order and this entire exercise must be completed within three months from the date of production of a copy of this order by the petitioner. Specific date of hearing directing the petitioner to appear must be fixed by the District Magistrate, Kaimur and duly informed to the petitioner.



10. It is also made clear that the deposit of the third installment would continue to be subject to the disposal of the representation filed by the petitioner.

11. The writ petition is accordingly disposed of.

(Alok Kumar Sinha, J)

Prakash Narayan

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