

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1976 of 2024

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Arena Food & Agro Industries Pvt Limited, a Company incorporated Under the Provisions of the Companies Act, 1956, having its registered office at Village Nimi, P.S. Shekhopur, District-Sheikhpura through its Director, Radhey Sharma, aged about 49 Years, Son of Harangi Singh, Resident of Village Nimmi, P.S. Shekhopur, District Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Prioncipal Secretarty, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, 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 Cum Collector, Sheikhpura.
5. The Mineral Development Officer, Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi Mr. Avinash Shekhar, Advocates
For the State	:	Mr. Shailesh Kumar, AC to GP-5
For the Mines Dept.	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Utsav Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 21-01-2025

Heard Mr. Suraj Samdarshi, learned counsel for the petitioner, Mr. Shailesh Kumar, learned AC to GP-5 for the State as well as Mr. Naresh Dikshit, learned Special. P.P. for the Mines Department.

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



“(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing memo no. 1151 dated 19.09.2022 issued by the Respondent Mineral Development Officer, Sheikhpura whereby and whereunder a penalty of Rs. 61,83,72,105/- has been imposed upon the petitioner purportedly under Rule 39 and 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining Transportation & Storage) 2019 Rules for allegedly transporting 52,80,692 CFT and 5,39,280.75 CFT minerals from K license site bearing K-Sheikhpura/28/2022 and K-Sheikhpura/30/2022 without issuance of e-transit challans.

(ii) This Hon'ble Court may adjudicate and hold that mineral stocked by Petitioner at its K-license sites obtained under Rule 39 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules 2019, is royalty paid and therefore there is/was no occasion for the petitioner to misappropriate mineral from the K-license sites.

(iii) This Hon'ble Court may further adjudicate and hold that penalty cannot be levied upon a valid settee under Rule 56(2) of the 2019 Rules.

(iv) This Hon'ble Court may further adjudicate and hold that memo no. 1151 dated 19.09.2022 issued by the Respondent Mineral Development Officer is bad in the eyes of law since the same has been issued in glaring violation of the principles of natural justice as the petitioner has not been afforded any show cause



notice whatsoever to controvert the allegations upon which the penalty has been levied.

(v) This Hon'ble Court may further adjudicate and hold that the levy of penalty contained in memo no. 1151 dated 19.09.2022 is in gross violation of the maxim audi alteram partem as the petitioner has been condemned unheard without an opportunity to defend the charges against it.

(vi) This Hon'ble Court may further adjudicate and hold that the imposition of penalty upon the petitioner is in violation of the 2019 Rules?

(vii) 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 petitioner is the stock holders in the Mines Department and a mining lease has been settled with the petitioner and the petitioner had deposited Rs. 29,00,00,000/- (Twenty Nine Crores) for the period from March, 2017 to March, 2022. Learned counsel for the petitioner further submits that the petitioner has received a letter dated 19.09.2022 under the signature of the Mineral Development Officer, Sheikhpura (respondent no. 5) by which the respondent no. 5 has demanded a royalty under Rule 39 and 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining Transportation & Storage) Rules, 2019 to the tune of Rs. 61,83,72,105/- (Sixty



One Crores Eighty Three Lakhs Seventy Two Thousand and One Hundred Five). Learned counsel for the petitioner further submits that the letter dated 19.09.2022 was issued without any show cause notice to the petitioner and even at the time of inspection the petitioner was not present at the site.

4. Learned counsel for the Mines Department has filed a counter affidavit stating therein in paragraph nos. 12 and 14 of the counter affidavit that the Mineral Development Officer, Sheikhpura (respondent no. 5) has inspected the site of K-License on 08.07.2022 where he has found the stored quantity of minerals was zero and as per departmental online portal, the quantity of sand mineral of 52, 80, 692 CFT and 53, 92, 80.75 CFT at respective sites, has been found in the online portal of the requirement and as per defiance Rule, 11, 39 and 43 of Bihar Minerals (Concession, Prevention of Illegal Mining Transportation & Storage) Rules, 2019 the petitioner is liable to pay the royalty to the tune of Rs. 61,83,72,105/- (Sixty One Crores Eighty Three Lakhs Seventy Two Thousand and One Hundred Five).

5. Learned counsel for the petitioner submits that action of the respondents is in violation of principle of natural justice and without giving any show cause notice the impugned order has been passed against the petitioner. Learned counsel for the petitioner



submits that the petitioner is ready to pay the amount if the same has been passed after compliance of principle of natural justice.

6. In view of the aforesaid, the order dated 19.09.2022 passed by the Mineral Development Officer, Sheikhpura (respondent no. 5) (Annexure-10) is hereby set aside and the matter is remanded back to the respondent no. 5 with a direction to issue a fresh show cause notice to the petitioner and after hearing the parties, the respondent no. 5 has liberty to pass a fresh and reasoned order in accordance with law.

7. With the aforesaid liberty/directions, the writ petition stands disposed of.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.01.2025
Transmission Date	N.A.

