

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17615 of 2025

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Shailendra Prasad Singh Son of Late Rajmohan Singh, Resident of Village
More Dhirai, P.S. Jamhor, Patanwan, District Aurangabad, Bihar- 824121.

... .. Petitioner

Versus

1. The State of Bihar through The Additional Chief Secretary, Department of Mines and Geology, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Department of Mines and Geology, Govt. of Bihar, Patna.
3. The District Magistrate cum Collector, Aurangabad cum District Mining Officer, Department of Mines and Geology, Government of Bihar, Aurangabad.
4. Mines Development Officer, District Mining Office, Aurangabad.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Gautam Kumar Kejriwal, Advocate
		Mr. Alok Kumar Jha, Advocate
For the State	:	Mr. Babita Kumari, A.C. to S.C.-1
For the Mines Department:		Mr. Naresh Dikshit, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 03-04-2026

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

- “a) For quashing the order bearing Memo No.1396 dated 08.10.2025 issued under the signature of Respondent No.3 whereby the Earnest Money Deposited by the Petitioner in the auction for settlement of Sandghat Aurangabad Son - 14A has been arbitrarily forfeited;*
- b) For direction upon the Respondent No.*



3 to refund the amount of Rs. 2,34,22,500/- which was deposited by the Petitioner as EMD in connection with Tender Notice for settlement of Sandghat Aurangabad Block 14-A (Aurangabad Son 14-A) or in alternative consider the said EMD submitted vide NEFT bearing UTR No. SBINR52025090597754809 as EMD for the fresh Tender Notice floated on 20.10.2025, including Aurangabad Son 14-A Sandghat at Serial 2;

- c) For issuance of writ or order or a direction restraining the respondent from the proceeding with the fresh tender process pursuant to NIT dated 20.10.2025 in exclusion of the petitioner till adjudication and disposal of this writ petition.*
- d) For directing the Respondent No.3 to settle the Sandghat Aurangabad Son 14-A re-advertised vide short notice inviting Tender Notice dated 20.10.2025 in favour of the Petitioner;*
- e) For holding that the Respondent No. 3 admitting the existence of Technical glitch due to which the Petitioner could not participate in bidding process, could not have passed the impugned order forfeiting the EMD due to non-participation of the Petitioner in the bidding process on the date of bidding;*



f) For holding that in the facts of the present case the Respondent No.3 could not have forfeited the EMD of the Petitioner as due to admitted technical glitch, the Petitioner could not have been alleged to have violated Clause 19(v) of the Tender Notice”

2. The brief facts relevant for the present writ petition is that the respondent-Department of Mines & Geology, Government of Bihar, published a tender notice for settlement of *ghats* situated in the district of Aurangabad including Aurangabad Sone 14-A. The present petitioner having been eligible, participated in the bid and paid EMD of Rs. 2,34,22,500/- along with bid security amount of Rs.5000/- and Rs.5900 along with other necessary documents. Pertinently, according to the tender notice, the date and time for financial bidding/auction was slated for 16.09.2025 between 11:00 AM to 01:00 PM.

3. It is the case of the petitioner that on the day of financial bid, he attempted to participate, however, according to him, he was prevented from participating in the financial bidding process on account of some technical error/glitch on the portal. The technical glitch preventing him from participating in the financial bid process on the specified date and within



stipulated time was beyond the control of the petitioner. It is further the case of the petitioner that the petitioner immediately contacted the office of BELTRON which was entrusted for operating the e-portal at *proc2.bihar.gov.in* and therefore *boda fide* attempted to participate in the financial bidding process.

4. It is also the case of the petitioner that he has submitted a representation dated 16.09.2025 requesting the respondent authorities to conduct the process afresh but vide impugned order dated 08.10.2025, the earnest money deposit of an amount of Rs.2,34,22,500/- was forfeited in terms of Clause-19(v) of the tender notice on the ground that the petitioner deliberately did not participate in the bidding process.

5. Learned counsel for the petitioner submits that the forfeiture of the Earnest Money Deposit (EMD) of the petitioner is wholly illegal since he had attempted to log-in into the portal for participating in the e-auction process, however, for the reasons beyond the control of the petitioner he was prevented from participating in the aforesaid process.

6. Learned counsel for the petitioner further submits that consequent upon the representation dated 16.09.2025, filed by the petitioner, the respondent authorities had called for a report from BELTRON regarding the technical



glitch on the date and time when the process of e-auction was going on, to which, BELTRON had replied vide its e-mail dated 24.09.2025 wherein, according to the learned counsel for the petitioner, BELTRON had admitted that there was indeed certain technical error on the portal of e-auction which had subsisted till 1:01 P.M. on 16.09.2025. Pertinently, according to the tender notice, the auction process was only till 1:00 P.M. and therefore, the petitioner could not participate in the e-auction process.

7. Adverting to Clauses- 14 and 19(v) of the tender notice, the learned counsel for the petitioner has argued that though the participant to the e-auction process has to be vigilant regarding I.T. resources and its functioning, however, the technical glitch or issue on the portal itself was beyond the control of the petitioner and therefore, cannot result into punishing the petitioner himself, more-so, when admittedly, the respondents have admitted to the existence of technical glitch on the aforesaid portal.

8. It has been argued by learned counsel for the petitioner that in the present case, no show-cause notice seeking an explanation from the petitioner was issued before forfeiture of the EMD of the petitioner, which is in gross violation of the



principles of natural justice and is bad in the eyes of law.

9. The next limb of argument of learned counsel for the petitioner is that for the settlement of sand *ghat* at Aurangabad Sone 14-A, altogether three participants including the petitioner had filed tender notice document and in the technical bid the petitioner and one M/s. Laxmi H.P. Gas Agency were found technically qualified for the bid. The learned counsel has emphasized that the aforesaid other participant namely, M/S. Laxmi H.P. Gas Agency was automatically restrained from participating in the present bid process since one Sand Ghat i.e. Sand Ghat No.16-A had already been allotted to the aforesaid other participant and therefore, the said bidder being restrained from participating in the auction, therefore, the petitioner remained the sole bidder.

10. It is the contention of the learned counsel for the petitioner that out of a total of three participants one was disqualified in the technical bid itself and out of remaining two bidders, one was restrained from participating in the bid process since he had already been allotted another sand ghat in the same district, and therefore, as a consequence, the petitioner remained the sole bidder and in such case, the provisions under Clause-19(vi) of the Tender Documents ought to have been applied



whereunder the respondents are bound to issue a fresh auction and in case of no participation even in response to such fresh notice, the respondent no.3 would be required to make necessary recommendation to the respondent department for decision on the point of acceptance of the proposal of the single bidder. Therefore, once the co-bidder M/S. Laxmi H.P. Gas Agency was prevented from participating and the petitioner was left as the single bidder, the provisions of Clause-19(vi) ought to have been implemented and the respondent no.3 had to issue a notice instead of passing the impugned order forfeiting the E.M.D.

11. By making the aforesaid submissions, it has been submitted by learned counsel for the petitioner that the impugned order forfeiting the E.M.D. of the petitioner is punitive, arbitrary and wholly illegal and deserves to be quashed and set aside.

12. During the pendency of this case, the respondents had come out with fresh tender notice for the settlement of the subject sand *ghat* and in these circumstance this Court vide order dated 04.11.2025, had permitted the petitioner to participate in the fresh tender process without depositing fresh E.M.D. subject to the final outcome of this writ



petition. Thereafter, a supplementary affidavit has been filed by the petitioner stating therein that pursuant to the order of this Court he was allowed to participate in the fresh bidding process but the petitioner failed to succeed in the said fresh bidding process.

13. Learned counsel for the answering respondent nos.3 and 4 has submitted at the outset that the allegation of the petitioner regarding technical glitch is totally incorrect, which is confirmed from the e-mail dated 24.09.2025 sent by BELTRON to the respondent authorities which illustrates that the petitioner has deliberately entered invalid / incorrect log-in details on the e-auction portal and as a consequence, he did not participate in the e-auction process. Adverting to the aforesaid e-mail dated 24.09.2025, it is categorically submitted that on the date and time of the tender process, altogether 287 tenders were successfully closed with multiple bids which clearly shows that there was no system malfunction on the e-portal.

14. It is the categorical submission of the learned counsel for the answering respondent nos.3 and 4 that the petitioner did not participate in the e-auction process and even as per the representation preferred by the petitioner himself, the



issue was that of 'log-in issue'. The petitioner contacted BELTON at 12:57 PM, that is, merely three minutes before the close of the bidding process and the issue stood resolved at 01:01 PM. The root cause of the issue faced by the petitioner was that the petitioner had himself entered invalid credentials on the e-auction portal which is clearly attributable to the petitioner himself.

15. Pertinently, clause 16 expressly states that all intending bidders shall ensure that they must duly verify their I.T. related resources and equipment related to the e-auction process and therefore, it was incumbent upon the petitioner to ascertain the correct log-in details of the e-auction process. Further, the petitioner waited for the last minute to contact BELTRON to resolve the issue of invalid credential.

16. It has been emphasised by the learned counsel for the answering respondent nos.3 and 4 that BELTRON found no fault on the e-portal which is illustrated by the fact that on the very same portal 287 other tenders were conducted successfully on the very same day. It is, therefore, the submission that the conduct of the petitioner itself does not warrant any interference from this Court.

17. It is the next submitted by the learned



counsel for the answering respondent nos. 3 and 4 that under clause 19 (v) of the N.I.T., there is no discretion on the part of the Collector and in case of non-participation by a technically qualified bidder, the forfeiture shall be mandatory and a natural consequence.

18. Lastly, it is submitted that clause 19(vi) of the N.I.T. would only apply when a single bid is received, but in the present case, another bidder namely, M/s. Laxmi H.P. Gas Agency had participated in the auction and were found technically qualified and hence, it cannot be said that the present e-auction was a 'single bidder auction' and therefore, clause 19(vi) of the N.I.T. could not be triggered.

19. I have considered the submissions of the parties and perused the materials on record.

20. From the record, it appears that the petitioner had participated in the settlement of sand *ghats* situated in the district of Aurangabad particularly, Aurangabad Sone 14-A. After depositing the E.M.D. of Rs.2,34,22,500/- the petitioner had qualified to participate in the financial bidding which was scheduled for 16.09.2025 between 11:00 A.M and 1:00 P.M. When the petitioner could not participate in the e-auction process, he made a representation on the very same date and the



respondent authorities had called for a report from BELTRON, which was entrusted to manage the e-auction portal, on the issue of malfunction or technical glitch on the portal. Responding to the aforesaid request, BELTRON had replied through e-mail dated 24.09.2025. The relevant portion of the aforesaid e-mail reads as under:-

“For Prop. Shailendra Prasad Singh:

*As per the attached timestamp of call records, bidder had called us at 12:57 PM (Call screen attached) from mobile number xxx132 regarding login issue. Our team member provided required support and login issue resolved around 01:01 PM but auction participation time was over. **The reason of login issue was on invalid credentials (Login ID/Password wrong), we had (sic) investigated and found that there was no issue of eproc2 application as total no of 287 tenders were closed with multiple bids received against the tenders.***

We would like to confirm you that, portal was up and running properly as we have not received any calls or complaint from eProc2 user.

*Kindly note that during the investigation we found that we received calls from common mobile number xxx132 from both bidders HP Gas (**Laxmi HP Gas Agency**) & **Prop. Shailendra Prasad Singh** for auction assistance (Calls record details attached). As per the pre-*



defined process of e-auction, bidder should not be allowed to share auction details or information during live auction to prevent cartel and department will get desired result after auction but this has not happened with auction against Tender No.108369-Aurangabad Sone 14A.

We hope above facts will suffice your concerns raised to us.” (emphasis supplied).

21. The aforesaid e-mail has been brought on record by the answering respondents in their counter affidavit. Upon perusal of the aforesaid e-mail, it is clear that on the date and time of e-auction, there was no malfunction or technical glitch on the portal which is fortified by the fact that about 287 tender processes were successfully completed with multiple bids on the very same portal. Further, the error identified by BELTRON in the aforesaid e-mail is of wrong credential (log-in ID / password) which has been entered by the petitioner on the portal. This Court has noted that the date and time for financial bidding/auction was slated for 16.09.2025 between 11:00 A.M. to 01:00 PM. but the petitioner has chosen to contact BELTRON only at 12:57 P.M. i.e. merely three minutes before close of the e-auction process.

22. Be that as it may, this Court has noted that the respondents have forfeited the E.M.D. of the petitioner



under Clause-19(v) of the Tender Documents but, the contention of the respondents that the EMD can be forfeited automatically without affording an opportunity to the petitioner on the ground that there is no discretion available to the Collector, is not appealing to this Court. It appears that the petitioner was neither issued notice nor was heard before forfeiting his E.M.D., which clearly violates the principles of nature justice.

23. Recently, the Hon'ble Supreme Court in the case of *Krishnadatt Awasthy vs. State of M.P. & Ors.*, reported as (2025) 7 SCC 545 has emphasized on the imperativeness of principles of natural justice, particularly, before an administrative authority acting as a *quasi judicial* function and has held as under:-

“43. The opportunity of hearing is considered so fundamental to any civilised legal system that the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds [Olga Tellis v. Bombay Municipal Corpn., (1985) 3 SCC 545].

44. It has been argued before us that if the failure to provide hearing does not cause prejudice, observing the principle of natural justice may not be necessary. In this context, a three-Judge Bench of this Court in *S.L. Kapoor v. Jagmohan* [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379]



speaking through Chinappa Reddy, J. considered such arguments to be “pernicious” and held that “[t]he non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary”. The Supreme Court, however, has drawn out an exception where “on the admitted or indisputable facts only one conclusion is possible, and under the law only one penalty is permissible, then the Court may not compel the observance of natural justice” [Swadeshi Cotton Mills v. Union of India, (1981) 1 SCC 664 : (1981) 51 Comp Cas 210; Aligarh Muslim University v. Mansoor Ali Khan, (2000) 7 SCC 529 : 2000 SCC (L&S) 965].

45. Professor I.P. Massey [I.P. Massey, *Administrative Law* (8th Edn., 2012).] has commented on this shift as under:

“Before the decision of the highest Court in *S.L. Kapoor v. Jagmohan* [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379], the rule was that the principles of natural justice shall apply only when an administrative action has caused some prejudice to the person, meaning thereby that he must have suffered some “civil consequences”. Therefore, the person had to show something extra in order to prove “prejudice” or civil consequences. This approach had stultified the growth of administrative law within an area of



highly practical significance. It is gratifying that in Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379], the Court took a bold step in holding that a separate showing of prejudice is not necessary. The non-observance of natural justice is in itself prejudice caused. However, merely because facts are admitted or are undisputable it does not follow that the principles of natural justice need not be observed.”

46. *In State Bank of Patiala v. S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717], the Supreme Court observed that where an enquiry is not convened by any statutory provision and the only obligation of the administrative authority is to observe the principles of natural justice, the court/tribunal should make a distinction between a total violation of the rule of fair hearing and violation of the facet of that rule. In other words, a distinction must be made between “no opportunity” or “no adequate opportunity”. In the case of the former, the order passed would undoubtedly be invalid and the authority may be asked to conduct proceedings afresh according to the rule of fair hearing. But in the latter case, the effect of violation of a facet of the rule of fair hearing has to be examined from the standpoint of prejudice.*

47. *In Dharampal Satyapal Ltd. v. CCE*



[Dharampal Satyapal Ltd. v. CCE, (2015) 8 SCC 519 : (2015) 33 GSTR 1], this Court dealt with the prejudice question as under: (SCC p. 540, para 42)

“42. So far so good. However, an important question posed by Mr Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be considered at a later stage and such things cannot be presumed by the authority. This was so held by the English Court way back in the year 1943 in General Medical Council v. Spackman [1943 AC 627 (HL)]. This Court also spoke in the same language in Board of



High School & Intermediate Education, U.P. v. Chitra Srivastava [Board of High School & Intermediate Education, U.P. v. Chitra Srivastava, (1970) 1 SCC 121] ”

48. *In a more recent decision in State of U.P. v Sudhir Kumar Singh [State of U.P. v. Sudhir Kumar Singh, (2021) 19 SCC 706] , the position of law was summarised as under: (SCC pp. 748-49, para 42)*

“42. ...42.1. Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

42.2. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

42.3. No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel,



acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

42.4. In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

42.5. The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

24. 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.

25. Considering the aforesaid decision of the Hon'ble Supreme Court in the case of ***Krishnadatt Awasthy (supra)***, it is clear that the principles of nature justice must be adhered to strictly. However, in the present case, the same has not been adhered to since the earnest money deposited by the petitioner has been forfeited without having been given an opportunity of hearing. In my opinion, the petitioner should have been issued a proper notice and should have been given an opportunity of hearing before forfeiture of the earnest money deposited by the petitioner.

26. In view of the aforesaid discussions, this Court deems it appropriate that the violation of principle of natural justice in the present case, warrants remand of the present matter to the District Magistrate-cum-District Mining Officer, Aurangabad for passing a reasoned and speaking order after affording an opportunity of hearing to the petitioner in consonance with the principles of natural justice.

27. Accordingly, the impugned order dated 08.10.2025 issued by the District Magistrate-cum-District



Mining Officer, Aurangabad is hereby quashed and set aside.
The matter is remitted to the District Magistrate-cum-District Mining Officer, Aurangabad for passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner.

28. The writ petition is allowed to the above extent.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	13.01.2026
Uploading Date	03.04.2026
Transmission Date	

