

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4983 of 2016

M/s S.S. Traders through its Proprietor Shiv Shankar Sah, son of Jaga Sah,
resident of village Amra Talab, P.S. Sasaram, Distt. Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Mines and Geology, Bihar, Patna
3. The District Magistrate, Rohtas
4. The Assistant Director, Mines and Geology, Rohtas

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None.
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P. Mines, Mr. Sumit Shekhar Pandey, A.C. to Naresh Dikshit.
For the State	:	Mr. Sudish Kumar, Advocate, A.C. to PAAG

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 23-04-2019

1. This writ application has been filed for quashing the order dated 8.6.2015 passed by learned Commissioner, Mines, Bihar, Patna, in Revision Case No. 08 of 2013, by which the stone stockist licence bearing No. 283 of the petitioner has been rejected. Petitioner has further prayed for quashing the order dated 30.9.2011 passed by the Collector.

2. None appeared on behalf of the petitioner.

3. Counsel for the Mines Department and State are present.

4. Petitioner was directed on 17.4.2019 to file supplementary affidavit bringing on record the reply to show cause filed by him before Revisional Authority, but no



supplementary affidavit has been filed nor anybody has appeared on his behalf.

5. It is mentioned in paragraph-3 of the writ petition that on 29.11.2003, the licence for stockist of stone mineral beyond any leasehold areas was granted to the petitioner in form “L” under Rule 49 of the Bihar Minor Mineral Concession Rule, 1972. Thereafter, in terms of power conferred by Section 23C of Mines and Mineral (Development and Regulation) Act, the State Government made rules 2003 namely, Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2003 and its Rule 7, provides the procedure for granting stone stockist licence for use of crusher machines. The Respondent authorities after considering the availability of stone minerals, on the basis of leasehold area of existing mines, fixed the number of stone stockist at about 265 for the District of Rohtas and, thereafter, notice was published in Hindi daily Newspaper regarding settlement of the stone stockist licence by way of auction. It was also required as per Rule 7, the persons interested for getting the aforesaid stockist licence was required to give ‘No Objection Certificate’ from Pollution Control Board and licence under Bihar Factory Rules.



6. Pursuant to the aforesaid guidelines and the notice published in Newspaper, the petitioner filed application along with required security deposit and other requisite documents and participated in auction which was held for aforesaid stockist licence. The petitioner was declared successful bidder and was directed to deposit the 1st installment of auction amount. Thereafter, he was granted stockist licence.

7. The petitioner was granted stockist licence bearing licence No. 283/07 on 21.3.2007 with respect to Plot Nos. 98, 99 and 101, Khata No. 115, situated in Mauza Rudrapura, for a consideration money of Rs.13,00,100/- after depositing 1st installment of Rs.1,85,730/-. The petitioner invested huge amount in purchasing crusher machines along with all necessary machinery such as heavy motors, generators, on constructing the foundations and other building for office and staffs and labourers under the legitimate expectation that he is investing such a huge amount on account of grant of licence for 20 years. Thereafter, petitioner began to operate their crusher machine without any hindrance. Petitioner was depositing licence fees in time. He faced acute problem with supply of stone boulders. He could deposit the full installment for 2007-2008. In the meanwhile, on 12.7.2011, show cause notice was issued to petitioner showing



Rs.1,85,730/- dues as installment and Rs.8,91,503/- as interest. He was asked to give explanation as to why his licence be not cancelled. The Government of Bihar amended the Bihar Minor Mineral Concession Rule, 1972 by amendment Rules, 2010. The petitioner due to non-supply of boulders on account of aforesaid amendment brought in the Bihar Minor Mineral Concession Rule 1972 and a new Rule 53, was not able to deposit the royalty amount.

8. Counsel for the State has filed counter affidavit and submitted that petitioner as per agreement was required to make payment of royalty amount as the Government cannot waive the aforesaid amount. The petitioner was granted stockist licence No. 283/07 over Plot Nos. 98, 99 and 101 in village Rudrapur, Distt. Rohtas, but petitioner did not deposit third, fourth, fifth and sixth installment of settlement amount within 31st December 2008, 2009, 2010 and 2011. In this way, the petitioner has dues on account of settlement amount amounting to Rs.7,42,920/-. Apart from this, he has not deposited payable interest. The petitioner had to maintain the daily record of his own stock in Form 'G' under the provisions of Rule 7 (1) (k) of Bihar Mineral (Prevention of Illegal Mining, Transportation and Stockist) Rule, 2003, but he did not maintain the same. Thereafter, the Collector,



Rohtas, issued notice to the petitioner to give his defence. Complying the natural justice, the licence of petitioner was cancelled by the Collector, Rohtas, due to violation of various rules of Bihar Minor Mineral Concessions Rules, 1972. Petitioner has filed Revision Case No. 08 of 2013 before the Mines Commissioner and Mines Commissioner upheld the order of Collector, Rohtas.

9. From perusal of the order passed by the Mines Commissioner as contained in Annexure-5, it appears that stockist licence of several persons have been cancelled by the aforesaid order. The main reason given for cancellation of licence of this petitioner was that he did not pay the third, fourth, fifth and sixth installment of royalty of settlement amount by 31st December, 2008, 2009, 2010 and 2011. He also did not pay the amount of interest. The petitioner also did not comply the provisions of Rule 7 (1) (k) of Bihar Mineral (Prevention of Illegal Mining, Transportation and Stockist) Rule, 2003.

10. Petitioner could not give any valid reason for not depositing the royalty of settlement amount before competent authority. The petitioner has admitted that he has not deposited the royalty amount. He has taken defence that he could not get adequate boulders.



11. This Court finds that petitioner was required to deposit the royalty amount as per agreement. He failed to make payment of four installments as mentioned in the aforesaid order passed by the Revisional Authority. The Authority has issued show cause to the petitioner and after hearing the petitioner and looking into show cause, cancelled the licence of the petitioner.

12. Therefore, this Court does not find any illegality in the impugned order.

13. This writ application is accordingly dismissed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	02/05/2019
Transmission Date	N.A.

