

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18555 of 2015

M/s Czar Constructions Pvt. Ltd., (a Company registered under the Companies Act, 1956) represented through its Director Ved Prakash, son of Sri Mishri Lal Yadav having its registered office at Kali Asthan Dirapar, Begampur, P.S. Chowk, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Bhagalpur, Bihar.
4. The Superintending Engineer, Irrigation Circle, Kharagpur, District Bhagalpur, Bihar.
5. The Executive Engineer, Irrigation Division, Tarapur (Munger), District Munger, Bihar.
6. The District Mines Development Officer, District Mines office, District Muner, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate.
For the Respondent/s : Mr. Naresh Dikshit, Spl. P.P. Mines.

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 11-04-2019

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. This writ petition has been filed for issuance of appropriate writ for quashing the letter No. 331 dated 11.8.2105 as contained in Annexure-2 and consequential letter No. 440 dated 6.11.2015 as contained in Annexure-4, both issued by Mines Development Officer, Munger, directing the petitioner to deposit a sum of Rs.3,46,12,500/- as royalty and penalty, failing



which institution of Certificate Case and other penal actions for recovery of the same has been contemplated.

3. Counsel for the petitioner submits that royalty amount of Rs.3,46,12,500/- has already been deducted from his running account bill which is mentioned in paragraph-7 of the counter affidavit filed on behalf of respondent Nos. 1 to 5. Counsel for the petitioner referred to paragraph-7 of the aforesaid counter affidavit wherein it is clearly mentioned that payment for execution of the aforesaid work was made to the petitioner through running account bills after making necessary deductions including royalty for mining materials. The payment has been made to the petitioner till date through 16 running account bills after deducting royalty of Rs.3,10,73,283/-. The aforesaid amount under this head has been transferred to the Mines Department by way of book transfer. True copy of statement of deductions has been enclosed as Annexure-B to the counter affidavit.

4. Counsel for the petitioner has filed supplementary affidavit wherein he has enclosed the running account bills as Annexure-5 to the supplementary affidavit which shows that royalty at appropriate rate has already been deducted from the payment made to the petitioner and,



therefore, there is no liability of the petitioner with regard to the same.

5. Counsel for the Mines department (respondent No. 6) has filed supplementary counter affidavit stating in paragraph-11 that the statement of Water Resources Department for deduction of Rs.3.10 Crores under the royalty head and transfer to Mines Department is without any basis. The Water Resources Department may be referring to some other royalty amount but not of royalty on the minerals used in the work/tender of the petitioner.

6. Counsel for the petitioner submits that demand letters itself are illegal because before issuance of such demand letters, notice was to be sent to the petitioner to show cause. He has referred Annexure-3 whereby he has filed reply to first demand notice dated 11.8.2015 as contained in Annexure-2 claiming that amount of royalty has already been deducted from his running account bills, but the Department without considering the aforesaid letter of the petitioner, has passed order as contained in Annexure-4 directing to make payment of Rs.3,46,12,500/-.

7. In such circumstances, this Court finds that the aforesaid demand raised by the respondent No. 6 i.e. the District



Mines Development Officer, District Mines Office, Munger, is not in accordance with law and the same is illegal.

8. Therefore, the demand notice as contained in Annexure-2 and 4 to the writ petition are hereby set aside.

9. This writ petition is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	16/04/2019
Transmission Date	

