(2020) 11 PAT CK 0084

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 8096 Of 2020

M/S. Sainik Foods Pvt. Ltd	APPELLANT
Vs	
State Of Bihar And Ors	RESPONDENT

Date of Decision: Nov. 24, 2020

Acts Referred:

- Mines And Minerals (Development And Regulation) Act 1957 - Section 15(1A)(g)
- Bihar Minor Mineral Concession Rules, 1972 - Rule 25, 25(2), 52, 52(4)

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Gautam Kumar Kejriwal, Krishna Kant Singh, Brij Bihari Tiwary

Final Decision: Disposed Of

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner; Mr. Krishna Kant Singh, learned AC to SC 10 for the State and Mr. Brij

Bihari Tiwary, learned counsel appearing on behalf of the Mines Department, Government of Bihar.

3. The petitioner has moved the Court for the following reliefs:

â€œ(a) For issuance of a writ in the nature of certiorari for quashing of the letter bearing reference number 205/KHANAN dated 24.02.2020;

(b) For holding and a declaration that the liability for payment of rent/royalty under the Bihar Minor Mineral Concession Rules,1972 (hereinafter

referred to as the rules 1972 for short) would commence from the date of commencement of actual mining operation by the petitioner after obtaining

all clearances and permissions;

(c) For further holding and a declaration that in the undisputed facts and circumstances of this case as well as the position of law as prescribed in rules

1972, the 2nd installment in the case of petitioner would fall due in the month of January, 2019 and not January 2018 as per the terms of agreement as

well;

(d) For holding and a declaration that the demand of 2nd installment from the petitioner in the month of January 2018 would violate the meaning and

purport of both rule 25 (2) as well as rule 52 (4) of the rules 1972;

Or in the alternative;

(e) For holding and a declaration that at best the petitionerâ€™s liability for payment of installment of settlement/auction/bid amount would have to be

fixed anually (every 12 month)and therefore the demand of 2nd installment in the month of January 2018 is misconceived and based on unreasonable

and arbitrary construction of rule 25 and rule 52 of the rules1972;

(f) For holding and a declaration that clause 8 of the tender document attached with letter number 4067/M Patna dated 12.11.2014and clause 1 of part

V of the lease deed dated18.09.2017 executed by the petitioner are not binding upon the petitioner for being a manipulation in the statutory format of

lease deed in form D;

(g) For further holding and a declaration that rule 52 of the rules 1972 relates to payment of bid amount in case of quarrying lease and cannot apply to

stone mining leases and as such the modality for payment of royalty/auctioned amount/bid amount prescribed therein shall not apply to the case of

stone mining leases;

(h) For further holding and a declaration that in absence of specific rule prescribed by the respondent State of Bihar in terms of section 15 (1A)

(g) of the Mines and Minerals (Development And Regulation) Act,1957 (hereinafter referred to as the act 1957 for short) for the purpose of fixation

of particular period/time for payment of royalty the petitioner would be liable to pay in terms of rule 25 (2) of the rules 1972;

(i) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.â€

4. In terms of the order dated 30.09.2020, affidavit has been filed on behalf of the petitioner. However, learned counsel for the State submitted that he

has not been served copy of the affidavit.

5. At this juncture, learned counsel for the petitioner submitted that due to inadvertence, copy of the affidavit has been forwarded to another State

Counsel. However, he undertook that today itself copy of the same shall be forwarded to learned SC 10/AC to SC 10.

6. Coming on merits, learned counsel for the petitioner drew the attention of the Court to order dated 15.09.2020 passed in CWJC No. 7580 of 2020

by a coordinate bench in M/s Mahadev Enclave Pvt. Ltd Vs. The State of Bihar and others in which similar relief was sought and the matter was

disposed off in view of the offer made by the petitioner which was agreed to by both the learned State Counsel and learned counsel for the Mines

Department.

7. Learned counsel for the petitioner submitted that the present case be disposed off on similar terms.

8. On such stand of learned counsel for the petitioner, when the Court called upon learned counsel for the State and learned counsel for the Mines

Department, they agreed to the writ petition being disposed off in similar terms.

9. Accordingly, with consent of learned counsel for the petitioner; State and Department of Mines, Government of Bihar, the present writ petition is

disposed off in similar terms which is recorded hereinunder:

â€œPursuant to the Courtâ€™s order dated 11.9.2020 learned Special PP Mines submits, upon instruction, that the Mines authorities are agreeable to

the petitionerâ€™s proposal that he would be paying the principal amount along with interest thereupon for two months in equated monthly

installments within three months. For balance interest he would be approaching the Principal Secretary, Department of Mines by a representation

within two weeks, claiming exemption of the said amount.

In view of such statement of the learned Special PP Mines and having regard to the stand of the petitioner, which is binding inter parties, the

application may be disposed of in the aforesaid terms. It is however made clear that should the petitioner default in his commitment recorded

hereinabove, it will be open to the respondent authorities to proceed against the petitioner in accordance with law, and the petitioner will not be

permitted to rely on the instant order. The order is being passed in presence of Mr. Krishna Kant Singh, learned State Counsel.

The petitioner should submit his representation within a period of two weeks and deposit his first installment along with the said representation within

two weeks. The remaining two installments would be deposited as per consensus recorded hereinabove.

Upon determination of petitionerâ€™s claim for exemption of interest beyond two months, the authorities would be free to take steps according to

law.