

Dilip Kumar Singh Vs State Of Bihar And Ors

Court: Patna High Court

Date of Decision: Sept. 23, 2020

Acts Referred: Bihar Minor Mineral Concession Rules, 1972 " Rule 52(4), 22A (1), 22A(2), 22A(3)

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Sunil Kumar Singh, Naresh Dikshit

Judgement

Petitioner has prayed for the following relief(s):-

“(i) To declare addition of proviso to sub Rule (4) of Rule 52 in the Bihar Minor Mineral Concession Rule, 1972 as contained in SO-641 dated

27.3.2008 ultravires to the constitution of India whereby and whereunder settlee of minor mineral shall pay extra royalty for the quantity of stone

extracted and dispatched in excess of the quantity equivalent to bid amount with effect from 29.11.2004.

(ii) To command the respondents to declare amendment to the Bihar Minor Mineral Concession Rule, 1972 made through SO-641 dated 27.03.2008

ultravires to the Constitution of India whereby and whereunder Rule 22A (1), 22A(2) and 22A(3) of the said Rule has been deleted.

(iii) For declaration that the amendment made in column 3 for entry No.1 and Entry No.2 of Schedule II of Bihar Minor Mineral Concession Rule,

1972 proviso which has been brought with effect from 29.11.2004 as ultravires and unconstitutional.

(iv) to command the respondents and restrain them from collecting extra royalty from settlee for the quantity of stone extracted excess of the quantity

equivalent to the bid amount.

(v) For issuance of any other appropriate writ/directions which petitioner is found entitled for the facts and circumstances in the eye of law.

Learned counsel for the petitioner states that after the conduct of audit, perhaps the petitioner has settled the amount with the Mines Department and

as such be permitted to withdraw the present petition reserving liberty to initiate appropriate proceedings if so required and desired in accordance with

law, as also file a petition before this Court, on the same and subsequent cause of action.

Learned counsel for the Department of Mines states that the present petition has become infructuous and the impugned legislation cannot be said to

be ultra vires the Constitution of India.

In view of the statement made by the learned counsel for the petitioner, we permit the present petition to be withdrawn reserving liberty as aforesaid.