

In the Court of Mines Commissioner, Bihar, Patna

Dated 05.10.2017

Revision Case No – 02/2017
District – Kaimur

PRESENT :- K.K. Pathak, I.A.S.,
Mines Commissioner

=====

Sri Sanjay Kumar Singh

Vs.

Collector, Kaimur

=====

ORDER

05.10.2017

This is a Revision Application filed against the order passed by the Learned Collector, Kaimur on 20.10.2013.

Against the said order, the Revisionist had earlier preferred a Writ in the Hon'ble High Court CWJC No. 19292/2014. The Hon'ble High Court, vide order dated 02.09.2015, allowed the Petitioner to withdraw the Writ with the liberty to avail this Revisional forum.

This Revision Application was filed much later. However, no action could be taken on the same as the Revisionist filed the challan in the BTC Form only on 03.11.2016. Subsequently, the case remained unheard as there was no Mines Commissioner posted by the State Government.

Finally, the case was admitted and taken up for hearing on 07.09.2017. The report already received from the Learned Collector was given to the Revisionist to enable him to file his reply to the Counter Affidavit filed by the Learned Collector, Kaimur.

The case was taken up for final hearing on 03.10.2017. As per the Learned Advocate of the Revisionist, the orders passed by the Learned Collector are based on grounds which are self contradictory. He mentioned that the mining area is not close to the historical site as quoted in the order of the Learned Collector. Moreover, in 2016, the Learned Collector has given lease to other persons in the same area. He claims that he has been discriminated as the Learned Collector is giving lease to others but not to him.

The Learned Advocate also mentioned that the Department of Mines and Geology also agrees that there is no threat to the dilapidated structure due to any Mining operation. In his support, he submits Para wise comments submitted by the Department of Mines and Geology in CWJC No. 15536 of 2010 (Lal Chand Singh vs. State of Bihar). This was a Public interest litigation filed by the Petitioner.

As per the Learned Advocate, at Page 6 of the said Statement of Facts, there is no threat to the structure. Any mining operation is not likely to cause any damage to the said structure. The Statement of Facts also mentioned that 'it

is false to say the mining operation is prejudicial to the interest of Ecology or Environment'.

The Learned Advocate further argues that lease was given to one company M/s BSC-C&C and therefore, there is no reason for the Learned Collector to deny him a lease.

Thus the Learned Advocate concludes the arguments that the stand of the Learned Collector is contrary to the stand of the Department of Mines and Geology as is evident in the aforementioned writ.

Having heard the Learned Advocate of the Revisionist and based on the papers available on record, my own findings on the matter are as under:-

- (a) It appears that, in the vicinity of the Mining Area, there lies the tomb of Bakhtiyar Khan Khilji, Ruler of the medieval times.
- (b) In the vicinity also lays, near a place of called Madurna Hill, a structure called Barahdari. The said Barahdari symbolises the emotional legacy and cultural heritage of the population, particularly the minorities.
- (c) I have also perused the order of the Learned Collector which has quoted the above reason while passing the impugned order.

- (d) My attention is drawn to the fact that the Learned Collector, in his Counter Affidavit has mentioned that no comparison can be drawn with the Revisionist and the other lease holder in the area, M/s BSC- C&C. As per the Learned Collector, the said company was given the lease because the said company was constructing the East-West Corridor and was involved in execution of the national project.
- (e) I also note that the said lease in the name of M/s BSC-C&C has also been cancelled.
- (f) Therefore, I do not find any merit in the contention of the Revisionist that the Learned Collector is giving lease to other persons while denying the same to him. The Revisionist has not produced any evidence to suggest that the Learned Collector has given any other lease in the year 2016, as argued by the Learned Advocate.
- (g) I also note that the said Public Interest Litigation in which the Department of Mines and Geology has taken a stand,

that there is no danger to the structure due to mining operation, was taken in the year 2010. Since 2010, much water has flown and the nature of mining in the area has also changed. So much so that, now, the Department of Mines is giving the lease for stone mining and not for the mining of Pahari Mitti.

- (h) It is also to be noted that presently, the lease is given for stone mining and no longer for the Pahari Mitti. One lease holder has indeed been given a lease for stone mining and not for pahari mitti.
- (i) Therefore, there is no question of giving any lease or renewing any lease for Pahari Mitti.

Conclusion:-

Thus from the aforementioned findings, it is clear that the said Revision Application is for the renewal of Pahari Mitti, for which the Department of Mines does not give any lease any longer.

The averments made by the Revisionist that the Learned Collector has given license to others but not to him cannot be sustained. The sole licence holder of Pahari Mitti was M/s BSC-C&C and whose lease was cancelled, and as

on date, there is no person having any lease for the mining of Pahari Mitti.

Whatever mining lease exists is in the form of lease for stone mining. Therefore, there is no question of giving any license or renewal of any lease for Pahari Mitti. However, nothing stops the Revisionist to apply for license for stone mining as per the Rules.

That be the case, I am not inclined to interfere with passed by the Learned Collector on 20.10.2013 and accordingly, dismiss the Revision Application.

The Revisionist may apply for stone mining as and when Department invites fresh offers.

Revision Dismissed.

Dictated & Corrected

sd/-
(K.K. Pathak)
Mines Commissioner
Mines and Geology Department,
Bihar

sd/-
(K.K. Pathak)
Mines Commissioner
Mines and Geology Department,
Bihar

Memo No.-.....30/3...../M, Patna, Dated-.....9/10/17.....

Copy to :- Collector, Kaimur/ Mines Inspector, kaimur/
Sanjay Kumar singh, S/o-Shri Jagdish Singh, Vill-
Tillai, Post-Nokha, District-Rohtas/ I.T. Manager,
Mines & Geology Dept. Patna for information and
necessary action.

^

Under Secretary to Govt.