

In the Court of Mines Commissioner, Bihar, Patna

Dated 25.01.2018

Revision Case No – 01/2018
District – Patna
Revision Case No – 03/2018
District – Bhojpur
Miscellaneous Case No – 01/2018
District – Chhapra

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

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M/s Broadson Commodities Pvt. Ltd.

Vs.

Collector, Patna
Collector, Bhojpur
Collector, Saran

=====

ORDER

25.01.2018

In this Revision matter concerning 3 districts of Patna, Saran and Bhojpur, the Revisionist is common i.e. M/s Broadson Commodities Pvt. Ltd. Hence, the 3 matters have been clubbed together. The Revisionist, it may be noted, have been given the right to undertake sand mining in the 3 districts through a common advertisement and a common arrangement under the Sand Policy 2013. Subsequently, vide the letter dated 21.10.2014 of the Secretary to Commissioner Patna Division, Patna, the Revisionist was allowed to start mining in the 3 districts.



Later on, in the year 2017, around the month of July, series of raids were conducted against the Revisionist in Patna and cases were filed. Subsequently, proceedings were drawn against the Revisionist by the 3 collectors of Patna, Ara and Saran.

This is a Revision Application filed against the orders passed by the Learned Collectors of Patna, Ara and Chhapra.

The Learned Collector Patna passed an order of cancellation vide Order dated 11.11.2017. Against the said order, the Revisionist had earlier preferred a Writ in the Hon'ble High Court CWJC No. 17127/2017. Subsequently, the Revisionist chose to withdraw the said writ. The Hon'ble High Court, vide order dated 12.01.2018, allowed the Petitioner to withdraw the Writ with the liberty to avail this Revisional forum.

This Revision Application was filed on 12.01.2018. In the meantime, the revisionist have also withdrawn another High Court case CWJC No. 16160 of 2017 vide which he had challenged the auction of some sand ghats in Patna by the Department.

Additionally, the Learned Collector Bhojpur had earlier, vide Order No.- 904 dated 05.10.2017, cancelled the settlement of sand ghats of the Revisionist on the ground of violation of statutory provisions. Against the said Order of Learned Collector Bhojpur, the Revisionist had preferred a writ in the High Court, CWJC No.- 16952 of 2017. The Hon'ble High Court, vide Order dated 15.12.2017, allowed



the writ and remanded the matter back to the Learned Collector Bhojpur for hearing afresh.

The Learned Collector Bhojpur thereafter heard the Petitioner and passed an Order dated 13.01.2018 reaffirming the cancellation Order passed earlier.

Against the said Order of the Learned Collector Bhojpur, the Revisionist has preferred a Revision in this Court bearing Revision Case No. – 03/2018.

Parallely, the Learned Collector Saran had also initiated a proceeding and vide Order dated 22.09.2017, cancelled the settlement of sand ghats of this Revisionist. Aggrieved at this Order, the Revisionist had approached Hon'ble High Court. The Hon'ble High Order in CWJC No.- 16999/2017, vide Order dated – 15.12.2017, remanded the matter back to the Learned Collector, Saran. The Learned Collector Saran, vide Order dated 12.01.2018, referred the matter to this Court considering that this case pertains to 3 districts involving the same Settlee.

Meanwhile, the Settlee also filed a supplementary Revision Application on 18.01.2018 enclosing a letter dated 08.01.2018 addressed to the Principal Secretary, Mines mentioning his willingness to sell the sand at a particular rate, pay the BSMC charges and also clear the royalty dues with interest within 2 months. He also requested that he be given police force in all the 3 districts to ensure that no illegal mining takes place.



Accordingly, all the 3 matters were tagged together and a common hearing was done.

During the hearing on 16.01.2018 and 19.01.2018, the Deputy Director was directed by this Court to submit a report clearly de-lineating the exact area that were under operation by this Settlee. It was also directed that the Deputy Director should submit the royalty payment schedule.

The report of the Deputy Director has been received on the boundary demarcation and on the pending royalty. This was shared with the Revisionist during the hearing. It came to the knowledge that few of the ghats settled by the Department during the month of December 2017 and January 2018 overlapped the area operated by the Revisionist earlier.

It was clarified to the Revisionist that since these auctions were carried during the period of the cancellation of the license, the Revisionist should not create any problems for the new Settlees and extend all co-operation to them.

The Learned Advocate of the Revisionist was heard in great detail. He mentioned his commitment to stand by the letter of understanding dated 08.01.2018. He also confirmed that he has withdrawn the concerned cases, namely, CWJC No. 17127/2017, CWJC No. 16160/2017 and CWJC No. 17281/2017. He has filed the order of Hon'ble High Court dated 12.01.2018.

The Learned Advocate also mentioned that some of the ghats of these 3 districts are under consideration for an



environmental clearance and he requests the Department's support for an early grant of environmental clearance.

Having heard the Learned Advocate of the Revisionist and based on the papers available on record, I direct as under:-

- (a) The Settlee (Revisionist) shall ensure that the sand (Yellow Sand) is available to the customers in Patna district at an upper limit of Rs. 3000 per 100 CFT (inclusive of all taxes and BSMC charges). He shall ensure that this upper limit of the price is maintained throughout the rest of the period of the settlement, i.e. 31.12.2019.
- (b) The Settlee shall pay the BSMC charges at the prevailing rates for all the sand sold by him.
- (c) The Settlee shall also pay the pending royalty as well as the penalty for exceeding the environmental cap in certain Ghats, along with interest before 28.03.2018 as per the schedule annexed with this Order.
- (d) The Settlee (Revisionist) shall adhere to the boundaries duly earmarked by the survey conducted by the Deputy Director and his team. The Revisionist, therefore,

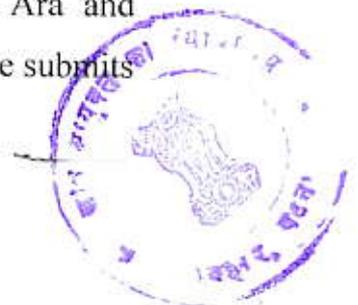


shall not cause any obstruction to any of the existing Settlees, who were awarded ghats in the recent auction conducted by the Department in the month of December 2017 and January 2018. Wherever, in a few cases, the boundaries of the new Settlees overlap with the Revisionist, the Revisionist shall make way to that extent.

- (e) The Revisionist shall also supply sand to the BSMC and to its Buffer stocks in various districts on payment.
- (f) The Department shall consider the pending environmental cases of the Revisionist and expedite their clearance in DEIAA/SEIAA as per the guidelines.
- (g) Needless to mention, he shall abide by all the extant guidelines and Rules of the Department and pay such dues of the Department from time to time.

Subject to the aforesaid conditions, I hold that the Settlee (Revisionist) may be allowed to resume his work for the remaining period of his settlement in all the 3 districts.

I direct the Learned Collectors of Patna, Ara and Saran to issue the work Orders to the Settlee after he submits



a small Affidavit in all the 3 districts that he is agreeable to the all the above conditions mentioned in this Order.

Dictated & Corrected

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

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(K.K. Pathak)
Mines Commissioner
Mines and Geology Department,
Bihar**

Memo No.-...527...../M, Patna, Dated-...25.1.18.....
Copy to :-Divisional Commissioner, Patna/Saran/Collector,
Patna/Bhojpur/Saran/Director, Mines/ Deputy Director
(HQ)/Assistant Director, Patna/Bhojpur / Mines Inspector,
Saran/ M/s-Broadson Commodities Pvt. Ltd., Himanshu
Complex, Block Road, Koilwar Chowk, Ara /I.T. Manager,
Mines & Geology Dept. Patna for information and necessary
action.

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Under Secretary to Govt.



मेसर्स ब्रॉडसन कॉमोडिटीज प्रा०लि० का पटना जिले का बकाया संबंधी प्रतिवेदन।

- (क) पंचांग वर्ष 2017 के तृतीय किस्त का बकाया राशि— रु० 14,81,54,901 /—
(ख) दिनांक 31.01.2018 तक तृतीय किस्त की सूद की राशि—1,33,33,941 /—
(ग) पंचांग वर्ष 2018 की बंदोबस्ती राशि (पंचांग वर्ष 2017 की बंदोबस्ती राशि पर 20% जोड़कर) =71,11,43,523/- इस प्रकार पंचांग वर्ष 2018 की प्रथम किस्त 50% यानि 35,55,71,762 रुपये।
(घ) वर्ष 2017 में बालू बंदोबस्तधारी द्वारा 12 बालूघाटों से अनुमोदित खनन योजना तथा पर्यावरणीय स्वीकृति में वार्षिक उत्पादन सीमा से 2,59,77,925 घनफीट अधिक बालू का उत्पादन एवं प्रेषण अवैध रूप से किया गया है जिसके लिए बिहार लघु खनिज समनुदान नियमावली, 1972 के नियम 40(8) के तहत बालू का वसूलनीय मूल्य = $2,59,77,925 \times 7 = 18,18,45,475/-$ (अठारह करोड़ अठारह लाख पैंतालीस हजार चार सौ पच्चहत्तर मात्र) है।

कुल बकाया राशि = क+ख+ग+घ= ₹69,89,06,079/-

इस प्रकार बंदोबस्तधारी मेसर्स ब्रॉडसन कॉमोडिटीज प्रा०लि० का पटना जिला हेतु कुल बकाया राशि:— ₹69,89,06,079/-


24/1/18


(विश्वजीत दाँ)
उप निदेशक (मु०)।



मेसर्स ब्रॉडसन कॉमोडिटीज प्रा०लि० का भोजपुर जिले के लिए बकाया संबंधी प्रतिवेदन।

(क) पूर्व का बकाया (वर्ष 2016 के अंतिम किस्त का सूद एवं 2017 के द्वितीय किस्त का सूद) = 10,94,795+11,28,842=22,23,637

(ख) पंचांग वर्ष 2017 के तृतीय किस्त का बकाया राशि— ₹25,74,96,455 /—

(ग) दिनांक 31.01.2018 तक तृतीय किस्त की सूद की राशि—2,31,74,681

(घ) पंचांग वर्ष 2018 की बंदोबस्ती राशि (पंचांग वर्ष 2017 की बंदोबस्ती राशि पर 20% जोड़कर) =123,59,82,984/- इस प्रकार पंचांग वर्ष 2018 की प्रथम किस्त 50% यानि 61,79,91,492 रुपये।

कुल बकाया राशि = क+ख+ग+घ = ₹90,08,86,265/-

इस प्रकार बंदोबस्तधारी मेसर्स ब्रॉडसन कॉमोडिटीज प्रा०लि० का भोजपुर जिला हेतु बकाया कुल राशि:— ₹90,08,86,265/-


24/1/18


(विश्वजीत दौं)
उप निदेशक (मु०)।



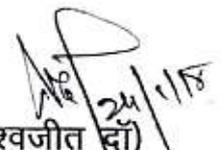
मेसर्स ब्रॉडसन कॉमोडिटीज प्रा०लि० का सारण जिले के लिए बकाया संबंधी प्रतिवेदन।

- (क) पंचांग वर्ष 2017 के तृतीय किस्त का बकाया राशि- ₹94,64,645/-
(ख) दिनांक 31.01.2018 तक तृतीय किस्त की सूद की राशि-8,51,818/-
(ग) पंचांग वर्ष 2018 की बंदोबस्ती राशि (पंचांग वर्ष 2017 की बंदोबस्ती राशि पर 20% जोड़कर) =4,54,30,295/- इस प्रकार पंचांग वर्ष 2018 की प्रथम किस्त 50% यानि 2,27,15,148 रूपये।

कुल बकाया राशि = क+ख+ग= ₹3,30,31,611/-

इस प्रकार बंदोबस्तधारी मेसर्स ब्रॉडसन कॉमोडिटीज प्रा०लि० का सारण जिला हेतु बकाया कुल राशि:- ₹3,30,31,611/-


24/1/18


(विश्वजीत दाँ)
उप निदेशक (मु०)।

