
(2005) 02 PAT CK 0086
In the Patna High Court
Case No : C.W.J.C. No. 2358 of 2000

Pathar Udyog Sangh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 02-02-2005

Acts Referred:

Bihar Minor Mineral Concession Rules, 1972 — Rule 46(A)

Citation : (2005) 1 BLJR 432 : (2005) 1 PLJR 639

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.S. Garg, J.—Heard learned Counsel for the parties.

2. The petitioner being aggrieved by the order dated 26.2.2000 passed by the Mines Commissioner, Bihar, Patna in Case No. 329/1999 is before this Court.

3. The summary of the facts are that the petitioner is an Association of the stone crusher owners. They are engaged in crushing the stones and converting the same into small chips. On an earlier occasion it was found that these stone crushers were using illegally quarried stones, certain enquiries were made. The premises of the stone crushers were sealed but the learned Deputy Director of Mines, Magadh Anchal, Gaya by his order dated 2.12.1999 passed in Appeal Case No. 6/1999-2000 directed to remove the seats. When this came to the notice of the District Magistrate, Gaya he made an application to the Mines Commissioner bringing to his notice the illegalities committed by the Deputy Director of Mines. After receiving the application, the Mines Commissioner registered a case suo motu under Rule 46(A) of the Bihar Miner Mineral Concession Rules, 1972. After hearing all concerned the Mines Commissioner found that the petitioners were purchasing much less quantity of the stones and were selling more stone chips. He also found that in fact they were using illegally quarried stones and were not paying the royalty on the same. It was conceded before him by the Members of

the petitioner-Association that they had been using illegally quarried stones. After taking into consideration the net purchase and the net sales and also after taking into consideration the net produce which could be made by the number of the labours employed by the crushers, he found that each of the petitioner-crusher owner was liable to pay minimum of Rs. 1,77,500/- as royalty to the State for the financial year 1999-2000. At the same time he observed that the assessment pertaining to past six years shall be reopened for detailed security and fresh assessment under Rule 46(a) of the Bihar Mines Minerals Concessions Rules, 1972. Being aggrieved by this direction of reopening the assessment, the petitioner is before this Court.

4. It is vehemently contended by the learned counsel for the petitioner that the petitioner not being the quarry owners nor being the licensees are not obliged to make payment of the royalty. According to him in absence of any material before the Commissioner or the Department no direction could be issued for reopening of the assessment for past six years. According to him, for any wrong committed by them they have already been penalised and they have paid the money.

5. The State has opposed the writ application.

6. Under the Mines Law, a quarry owner when quarries the stones and moves the produce out of the pithead or pit area then he is obliged to pay the royalty. The royalty in its turn is recovered by the quarry owner/licensee from the consumer. In a case where the quarry owner extracts the stones and sells it without paying the royalty then any person who purchases the same without paying the royalty would also be personally liable to pay the royalty because under the law he is obliged to pay the royalty of stones or the minerals produced. In the present case, the petitioners simply say that whatever had been purchased by them was detailed in statements and whatever excess has been sold by them was in fact illegally quarried stones. The law does not mean to say that any person using illegally quarried stones is not obliged to pay the royalty. Any person, who commits theft if held to be not under obligation to pay royalty then it would add premium to his wrong. Undisputedly the stone crushers had been selling more than what they had purchased. Under such circumstances, they were obliged to give proper accounts of the stones received by them. If they are unable to give the account or the source of receiving the stones then it will be deemed that they are engaged in illegally quarrying or purchasing illegally quarried stones, A thief or a wrong doer cannot be allowed to plead the ground of equity that he is not liable to pay the royalty because he has not purchased it from the quarry owners/licensees. He also cannot be allowed to say that the royalty is to be paid by the licensees or the quarry owners and the petitioner if obtains stones or minerals produced and pays no royalty then he is not required to account for the same. In a system like ours the Court would exercise its equity jurisdiction in favour of those who come to the Court with clean hands and not in favour of those who admits their guilt and still move with inflated chest and high head saying that they are not answerable to the demand made by the revenue authority. When i

put a question to the counsel for the petitioner that if they had received the illegally quarried stones why the petitioner could not be held liable for the royalty, the flat answer was that the petitioners are not answerable to pay the royalty because it is the duty/liability of the quarry owner. In the commercial world, all of us know that every charge of revenue is ultimately passed on the head of the consumer, be it mines, customs, sales tax or royalty or the transportation charges. If the petitioners are receivers of the goods then they are obliged to inform the concerned authorities that the goods were royalty paid and if they feel good in not doing so then they would be held liable to pay the royalty. The authority were not unjustified in issuing the orders of recovery.

7. So far as reopening of the accounts/assessment for past six years are concerned. I do not find any wrong in it. The facts are startling. They show that a racket was going on and in a scandalous manner the stones were quarried and were supplied to the stone crushers who too to earn big profits, were purchasing the illegally quarried stones and were not paying any royalty to the State and were causing loss of revenue. If for a period of six years only the assessment/ accounts are to be reopened then the petitioners must thank their stars because right from Days 4 when they have established their stone crushers they would be liable to make payment of the royalty on the illegally procured stones. The authorities were absolutely justified in directing reopening of the accounts of assessment. I find no reason to interfere. The petition is dismissed.