

Writ Petition No :: 11692 / 2014

M/s K.N. Narang Vs. State of MP and others

13.08.2014.

Shri A.L. Gupta for the petitioner.

Shri Rahul Jain, Deputy Advocate General, for the State/respondents on advance notice.

Petitioner, who is a contractor, has filed this writ petition being aggrieved by the action of the respondents in proposing to recover from the petitioner the royalty charges for the minor minerals consumed by the petitioner in execution of the contract.

The question involved in the matter has already been considered and decided by a Division Bench of this Court in **Writ Petition No. 21793/2012 (M/s Surinder Singh Kalra Vs. Union of India and another)**, vide order passed on 16.12.2013.

Taking note of the facts, the Division Bench has observed as under:

“10- The question of insisting upon the payment of royalty and the question of deducting royalty from the bills on similar contract has already been considered and decided by this court in various judgments. The question of demanding royalty from a contractor with regard to mineral consumed in execution of the contract has been considered in the case of **W.P.No.1361/09 (M/s Chandrama Construction Company Vs. M.P. Rajya Krishi Vipnan Sangh & others)**, **W.P.No.2535/2003 (M/s Ravi Construction Company Vs. State of M.P. and others)** and **W.P.No.5266/2006 (M/s K.P. Singh Bhadoria Vs. M.P. Rural Road Development Authority Bhopal)**. Recently also a Division Bench of this court in **W.P.No.16091/2010 (M/s Vinod Kumar**

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Jain Vs. M.P. Rural Road Development Authority, Bhopal and others) considered the said question and after taking note of the controversy, the following directions have been issued:

“ As controversy involved in this case is squarely covered by the order in **M/s Chandrama Construction Company** (supra) and we do not find any reason to differ with the reasonings and directions issued by the learned Single Judge, we dispose of this petition with following directions:

- (1) The petitioner shall either furnish the bills of purchase of minerals from authorized dealer or an affidavit disclosing the source from where petitioner purchased minerals, which were used in the construction work.
- (2) The respondents' authorities if are satisfied with the bills produced by the petitioner may process the bills, but in case of any doubt, respondents authorities may insist the petitioner to file an affidavit in support of its contention in respect of purchase of minerals from the open market by the bills.
- (3) In case the petitioner is unable to produce the bills for the purchase of the minerals or the royalty receipt in this regard, respondents' authorities shall insist the petitioner to file an affidavit pointing out specifically the manner in which minerals were purchased, disclosing particulars of the person from whom the minerals were purchased. On filing of the affidavit, the authorities shall be within their right to

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verify the aforesaid facts. They can also verify the facts from the record of the Mining Department of the concerned district.

- (4) On completion of the aforesaid process, the respondents shall clear the bills of the petitioner submitted in connection with the execution of the works contract and the amount of royalty, if any recovered from the bills, shall be released in favour of the petitioner.
- (5) In case, the authorities are not satisfied with the contention of petitioner or on verification, facts are not found correct then they shall pass a reasoned order in rejecting the contention of petitioner.
- (6) If the petitioner fails to produce the bills/affidavit as indicated hereinabove, the petitioner may represent his case to the concerned authority showing his inability to produce the bills or affidavit and it shall be for the State Government or authority to consider the representation and pass a suitable order in that regard within two months from the date of receipt of the representation.”

In that view of the matter, respondents/railway administration is directed to evaluate the claim of the petitioner in the light of the aforesaid observations and take a decision within a period of three months from the date of receipt of

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certified copy of this order. If any amount is found to be refunded to the petitioner, the same be done within the aforesaid period.

Accordingly, the petition stands allowed and disposed of.

Certified copy as per rules.

(RAJENDRA MENON)
J U D G E

(ALOK VERMA)
J U D G E

Aks/-