

Item No.91 to
93.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

12.08.2021
Ct No. 24

CPAN 117 of 2021
RVW No. 112 of 2020
IA No.CAN/1/2020 (Old CAN No. 4632 of 2020)

The State of West Bengal & Ors.

Vs.

Sk. Sahadat Ali

with

WPA No. 6236 of 2020

Sk. Sahadat Ali

v.

State of West Bengal & Ors.

Ms. Santi Das

... for the petitioner.

Mr. Amitesh Banerjee

Mr. T.M. Siddiqui

Mr. Nilotpall Chatterjee

... for the State.

The Court, by order dated September 18, 2020, directed the District Magistrate and Chairman, District Committee for Competitive Bidding, Paschim Medinipur to process the prayer of the petitioner for refund of the entire amount along with the statutory interest.

An application for contempt was filed for violation of the direction passed by the Court. During the pendency of the contempt application, the principal

amount has been paid to the petitioner on February 20, 2021. However, the interest was not paid.

An application for review has been filed by the respondents on December 21, 2020.

The ground for seeking review of the order is that there is no provision for paying interest in the Mines and Minerals (Development and Regulation) Act, 1957. Ground has been taken that the mining work was suspended in view of the order passed by the National Green Tribunal. There has been no laches on the part of the respondents.

The submission made on behalf of the alleged contemnors/review applicants does not appeal to the Court. The grounds are neither good nor valid grounds for entertaining the review.

Admittedly, the mining licence of the petitioner was suspended in November 2018. The concerned authority ought to have refunded the balance amount immediately instead of holding it back for no plausible reason.

The petitioner was constrained to approach the Court praying for refund of the balance amount. Even after the Court directed the authority to refund the amount within a specified time, the order was flouted. The petitioner was compelled once again to approach the Court by filing a contempt application. It was only

thereafter that the principal amount has been paid. Then came the application for review.

There is no reason as to why the authority will not pay interest to the petitioner as the money was lying with the authority from the date of suspension of license. The authority held back the money of the petitioner from November 2018 till February 2021 without any authority of law. Had the money been with the petitioner he could have enjoyed and utilized the same as per his wish and desire.

Even if there is no specific provision in the Mines and Minerals (Development and Regulation) Act, 1957 for payment of interest, the provision of the Interest Act, 1978 will come into play and the concerned authority will be bound by the said provision to pay interest to the petitioner on account of holding back his legitimate dues without any legal sanction from November 2018 till February 2021.

Accordingly, the application for review filed by the respondents stands dismissed.

The applicants are directed to pay interest to the petitioner in terms of the order dated September 18, 2020.

It is made clear that in the event interest is not paid to the petitioner within sixty days hereof, the petitioner will be entitled to receive additional interest @

2% per annum over and above the statutory interest for the unpaid dues after expiry of sixty days hereof.

Let the application for contempt appear in the list once again on November 25, 2021.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

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(Amrita Sinha, J.)