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22.01.2020
Court No.2
DC

CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
APPELLATE SIDE

WPA 28 of 2020

Kajal Das.
Vs.
State of West Bengal & Ors.

Mr. Arup Ratan Choudhury.....for petitioner

Mr. Debabrata Dhar
Ms. Paramita Sahu... for State

The petitioner has filed an application requesting for Short Term Mining Licence under Rule 44 of the West Bengal Minor Minerals Concession Rules, 2016.

It is the contention of the petitioner that the petitioner had been engaged in the business for excavating clay from Kaljani river at Mouja-Sovagunj by obtaining necessary permission. Thereafter in 2016, the permission was withdrawn by not allowing the petitioner to deposit the necessary fees and the petitioner was informed that the deposition on the bed of the river Kalijani was sand and not clay. As such the petitioner could not continue with the quarry permit. The petitioner preferred an application under Article 226 of the Constitution of India which was

disposed of by a Learned Judge of this Court directing the authorities to consider whether the sand deposited on the Kaljani river was sand or clay.

The B.L. & L.R.O., Alipurduar-II certified that the deposit was of low quality sand. Thereafter the petitioner filed an application on December 31, 2019 before the authorities along with amendment of the same on January 3, 2020 praying for a short term mining lease/licence with respect to the said plots as mentioned in the application pending grant of lease by way of competitive bidding. The petitioner submits that the authorities have not expressed any desire to initiate competitive bidding and no quarry permit has been granted to anybody. Thus, the petitioner claims that there was no impediment in granting short term mining lease to quarry the low quality sand on the bed of river Kaljani in the plots mentioned in their application till the decision is taken by the Government to issue such licence/lease on the basis of competitive bidding as per the Rules.

I have considered the submissions made by the parties. In my opinion, this writ petition can be disposed of with a direction upon the D.L. & L.R.O., Alipurduar-II to consider and dispose of the representation dated December 31, 2019 read with amendment of the said application dated January 03, 2020 in accordance with law within a period of two

months from the date of communication of this order by passing a reasoned and speaking order. The reasoned order will be communicated within a week thereafter.

The authority concerned will dispose of the matter in accordance with law and in terms of the Rules prescribed with regard to the same.

The writ petition is accordingly disposed of.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties upon observance of requisite formalities.

(SHAMPA SARKAR, J.)