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21.12.2021
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W.P.A. 681 of 2020
(M/s Bharati Stone Product vs. State of West Bengal & Ors.)

Mr. Prosenjit Mukherjee
Mr. Subodh Banerjee
... For the Petitioner

Mr. T. M. Siddiqui
Mr. Nilotpall Chatterjee
... For the State

Supplementary affidavit filed by the petitioner be taken on record.

It is contended on behalf of the petitioner that the petitioner was granted long term mining lease by the concerned Authority by a deed of lease dated 12th June, 2007 for a period of 20 years. The petitioner applied before the Authority for issuance of road challan for carrying 5 lakhs cubic ft. of stone from the site to various transportation points. In reply to such application, the concerned Authority informed the petitioner that such prayer has been approved on 22nd July, 2019 subject to deposition of royalty, cess etc. in advance. Referring to a letter dated 30th September, 2009 issued by the Assistant Secretary, Government of West Bengal to the District Magistrate, Birbhum, the petitioner submits that it is admitted by the Authority that there is no provision of demanding advance royalty from the lessee despite which such royalty in advance was demanded from it. The petitioner has deposited the

royalty for the year 2015-2016 as demanded by the Authority vide Memoranda dated 20th August, 2015, 29th April, 2016 and 19th August, 2016 and is also ready to pay royalty demanded by letter dated 20th May, 2014 after the amount is reassessed by the Authority. The petitioner prays for quashing the letter issued by the Authority dated 14th August, 2019 and disposal of its application dated 27th July, 2019 for issuance of road challan by the Authority at the earliest.

Learned counsel for the State, in his usual fairness, submits that as there is no provision for advance royalty, the letter dated 14th August, 2019 should be quashed. Learned counsel further submits that in view of the conduct of the petitioner in failing to pay the earlier royalty on time, such notice was issued by the concerned Authority for payment of royalty in advance.

At the outset, it should be stated that even if the petitioner is found to be irregular in payment of royalty, the Authority could not have claimed advance royalty from the petitioner *de hors* the law. In view of the admitted position that the demand of advance royalty is unknown to law, the letter dated 14th August, 2019 is quashed.

The 5th respondent in the writ petition should consider and dispose of the application of the petitioner dated 27th July, 2019 within a period of three weeks from the date of communication of this order after affording reasonable opportunity of hearing to the

petitioner and consider issuance of road challan in its favour at the earliest.

W.P.A. 681 of 2020 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)