19
14.12.2021
Ct. No.10
b.das

W.P.A. 13333 of 2020
+
CAN 1 of 2021

(Via Video Conference)

Suvendu Debnath
Vs.
State of W.B. & Ors.

Mr. Rahul Karmakar
Mr. S. Ghosh ...for the petitioner.

Mr. Soumitra Bandyopadhyay
Mr. R. C. Guchhait ...for the State.

Liberty is granted to the petitioner to implead West Bengal Mineral Development and Trading Corporation Ltd. (WBMDTCL) as respondent No.7 in the writ petition. The cause title of the writ petition be amended accordingly.

Affidavit of service filed by the petitioner be taken on record.

Heard learned counsels for the parties.

It is submitted on behalf of the petitioner that being the highest bidder in the e-auction for grant of long term mining lease, Letter of Intent was issued in favour of the petitioner by the 6th respondent on 18th December, 2018 which was valid for a period of two months from the date of its issuance and the petitioner was directed to fulfil all the conditions specified in the said Letter of Intent within such period.

The petitioner was granted liberty to apply for extension of time in the event he was unable to fulfil the conditions within the stipulated period of time. The amount of Rs.6,26,528/- was deposited in full by the petitioner through demand draft dated 25th September, 2018 and 12th November, 2018.

The petitioner was unable to apply for environmental clearance as by an order passed in the month of December, 2018, the National Green Tribunal stayed the functioning of District Environment Impact Assessment Authority. Directions were issued to constitute the State Environment Impact Assessment Authority and such set up was established only in 2020.

For the aforesaid reason, the petitioner submitted the terms of reference on August 17, 2020 for environmental clearance. Being unable to comply with the conditions laid down in the Letter of Intent, the petitioner applied before the authority for extension of the Letter of Intent, by a representation dated 28th December, 2020. Such representation is yet to be considered by the authority.

It is further submitted on behalf of the petitioner that it is a fact that such application for renewal was made after expiry of the stipulated time mentioned in the Letter of Intent.

The petitioner has referred to an observation of the Hon'ble Supreme Court in Commissioner of Income-tax, Jullundur vs. Ajanta Electronics, Punjab reported in (1995) 4 Supreme Court Cases 182 wherein the Hon'ble Apex Court has observed that "where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by the Court, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired."

Learned counsel submits that he was unable to file the application for extension of time within the stipulated period as he was waiting for issuance of environmental clearance by the authority.

The petitioner prays for a direction upon the authority to condone the delay in filing the application and for consideration of the application on merits.

It is submitted on behalf of the respondents that the petitioner ought to have filed the application for extension of time of the Letter of Intent before expiry of the period mentioned therein and no reason has been assigned by the petitioner for such delay in his application.

In the judgment in Commissioner of Income-tax, Jullundur (supra), the Hon'ble Supreme Court has made a clear observation that extension of particular period of time mentioned in an application may be granted even if such extension is sought after expiry of the time frame.

Having considered the submissions made on behalf of the parties and material on record, this Court is of the view that the petitioner be given liberty to submit a fresh representation before the authority praying for renewal of the Letter of Intent and assigning valid reasons with regard to the delay in filing the application.

Accordingly, the writ petition is disposed of with liberty to the petitioner to file a fresh comprehensive representation before the concerned authority within a week from date as directed above.

The 6th respondent shall consider and dispose of the representation within one month of receipt thereof after affording reasonable opportunity of hearing to the petitioner, in accordance with law.

While considering the said representation, the 6th respondent shall take into account the observations made in this order including the observation of the Hon'ble Supreme Court in the judgment in Commissioner of Income-tax, Jullundur (supra).

It is hoped and expected that the delay in filing the application shall be considered liberally and the representation shall be disposed of on merits by a speaking order. The order be communicated to the petition within a week thereafter.

Pending disposal of the representation, operation of the notice dated 29th April, 2021 issued by the Member

Secretary, State Level Environment Impact Assessment Authority be stayed.

With the above observations and directions this writ petition being WPA 13333 of 2021 alongwith CAN 1 of 2021 are disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)