

30.11.2021
Item No.46.
Court No.6.
AB

Through Video Conference

M.A.T. 962 of 2021

With

I A CAN 1 of 2021

Sk. Abdul Rafik

Vs

The State of West Bengal & Others

Mr. Piush Chaturvedi,
Mr. Mir Anowar ...for the Appellant.

Ms. Chama Mookherji,
Ms. Manika Pandit ...for the State.

By consent of the parties, the appeal and the application are taken up together for hearing.

The appellant has come up against an order dated August 17, 2021, whereby his writ petition being WPA 12254 of 2021 was dismissed.

The case of the appellant is that a mining lease was granted in his favour by the State on October 27, 2016, for a period of five years. However, because of the outbreak of the COVID-19 pandemic, he could not carry on the excavation work for the entirety of the lease period. Hence, he should be granted extension.

The learned Single Judge held that contractual disputes are involved and further, the Force Majeure Clause, on which the writ petitioner relied, was not

applicable in the facts of the case. Accordingly, the writ petition was rejected.

We are told by learned Advocate for the appellant that the appellant has made a representation dated March 15, 2021, to the Additional District Magistrate and District Land and Land Reforms Officer, Burdwan being the 3rd respondent herein, for extension of the period of mining activities. Learned Advocate says that the appellant will be happy if such representation is decided expeditiously.

Ms. Mookherji appearing for the State-respondents, in her usual fairness, does not oppose such prayer for consideration of the appellant's representation.

Accordingly, we direct the 3rd respondent, being the Additional District Magistrate and District Land and Land Reforms Officer, Burdwan to consider the appellant's representation dated March 15, 2021, (Annexure "P-8" to the writ petition) and take a reasoned decision thereon in accordance with law and the applicable rules and regulations, within a period of six weeks from the date of communication of this order after giving an opportunity of hearing to the appellant or his authorized representative. The decision so taken shall be communicated to the appellant within a week from the date of the decision.

We clarify that we have not gone into the merits of the appellant's case or his entitlement to have extension of the mining period. The 3rd respondent shall take an informed decision in that regard in accordance with law.

The order under appeal is, accordingly, set aside.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

The appeal being **MAT 962 of 2021** along with **IA No. CAN 1 of 2021** are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all the necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)