

December 14, 2021

ARDR (9)

WPA 24069 of 2019

Mukul Dolui

Vs.

The State of West Bengal & Ors.

Mr. Susanta Kumar Rakshit,

Mr. Sayantan Rakshit,

...for the petitioner.

Mr. Chandi Charan De,

Mr. Anirban Sarkar,

...for the State.

Report in the form of affidavit and Affidavit in reply thereto filed by the State respondents and the petitioner respectively are taken on record.

Heard learned counsels for the parties.

It is submitted on behalf of the petitioner that he was granted long term mining lease by the State respondents on 25th May, 2010 for a period of five years which expired on 24th May, 2015. The petitioner applied for renewal of the said lease in terms of Rule 12 of the West Bengal Minor Minerals Rules, 2002 within the statutory period of time and as the petition was not disposed of, the petitioner filed a writ petition before this Court praying for consideration of his renewal application by the authority. By an order dated 22nd December, 2015 in W.P. 11901 (W) of 2015, this Court directed the District Magistrate, Bankura to dispose of the relevant application by passing a reasoned order within eight weeks from the date of passing of the said order and granted liberty to the petitioner to continue with mining operations by virtue of Rule 12(6) of the 2002 Rules.

The petitioner submits that in compliance with the said order the petitioner was called for hearing on 29th June, 2016 and by an order dated 21st October, 2016 communicated on 2nd December, 2016, the District Magistrate rejected the prayer of the petitioner on the ground that after the West Bengal Minor Mineral Rules, 2002 was replaced by West Bengal Minor Minerals Concession Rules, 2016 with effect from 27th July, 2016, the petitioner's prayer for renewal of the earlier lease could not be considered in view of Sections 61 and 62(1) of the 2016 Rules.

Aggrieved by the said order, the petitioner submits that the lease was granted to the petitioner in terms of 2002 Rules and the application for renewal was submitted in terms of Rule 12(6) of the said Rules. Referring to Section 62(2) of the West Bengal Minor Minerals Concession Rules, 2016, learned counsel for the petitioner submits that in view of the said provisions, any action taken under the previous Rules shall be deemed to have been validly done or taken, under corresponding provisions of the present Rules.

Learned counsel for the respondents relies upon the report submitted by the respondents and submits that the prayer of the petitioner cannot be acceded to in view of the 2016 Rules which has taken the place of 2002 Rules and the specific provisions of e-auction laid down in the 2016 Rules.

The petitioner has submitted an application dated 28th November, 2019 before the concerned authority for reconsideration of his renewal application, which is pending before the authority.

Having considered the submissions made on behalf of the parties as well as material on record, this Court is of the view that the 3rd respondent should consider the representation for reconsideration filed by the petitioner keeping in view the observations made in this order.

I, therefore, dispose of the writ petition with a direction upon the 3rd respondent to consider and dispose of the representation filed by the petitioner dated 28th November, 2019 on merits within two months from the date of communication of this order, after affording reasonable opportunity of hearing to the petitioner, in accordance with law. The observations made in this order may be taken into consideration by the 3rd respondent while disposing of the representation.

With these observations and directions, WPA 24069 of 2019 is 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.)