

D/L
Item No. 1
23.06.2022
KOLE

**FMA 644 of 2015
With
IA No. CAN 1 of 2016 (Old No. 1436 of 2016)
With
IA No. CAN 2 of 2017 (Old No. 36 of 2017)**

**Basudeb Bhattacharya
-Vs.-
The State of West Bengal & Ors.**

*Mr. Rabindranath Mahato,
Mr. A. Sharkar Ray,*

...for the appellant.

*Mr. Lalit Mohan Mahato,
Mr. R. De,*

...for the State.

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

The appellant wants to get a long-term mining lease for five years in his favour for carrying out sand mining activities on the beds of river Darkeshwar.

The story started in 1989. This matter has a chequered history. We need not recount each and every stage of that. Suffice it to say that at various stages the appellant approached the writ court with the grievance of inaction on the part of the authorities and sitting tight over the application made by the appellant for grant of mining lease. Orders were passed in those writ applications directing the concerned officer to take a decision. Finally on May 25, 2012, the authority concerned rejected the appellant's application for long-term mining lease. The appellant challenged such rejection order by filing WP No. 15420(W)

of 2012. The writ petition was allowed. The rejection order was quashed by an order dated September 3, 2012, with a direction on the concerned authority to consider the mining lease application of the appellant in the light of the relevant provisions of the West Bengal Minor Mineral Rules, 2002, as it stood prior to its amendment in 2011.

By an order dated February 26, 2014, the authorities granted a mining lease in favour of the appellant for a period of two years in respect of seven acres of land. Being unhappy with the lesser duration of the lease, the appellant filed the present writ petition being WP No. 18526(W) of 2014 challenging the order dated February 26, 2014. The learned Single Judge by the impugned order dated August 8, 2014, disposed of the writ petition by permitting the writ petitioner/appellant to make an application for renewal of lease after expiry of the two years lease period. Being aggrieved, the writ petitioner is before us.

We have seen the order impugned before the learned Single Judge by which a two years mining lease has been granted in favour of the appellant. It is not indicated in the said order as to why five years lease has not been granted. After all, the writ petitioner had applied for five years lease. It is not that the relevant rules do not contemplate such a long-term lease. In our opinion, the concerned authority should have indicated, albeit briefly, as to why it is not possible for the State to grant a long-term mining lease as requested by the writ petitioner.

We dispose of the appeal by directing the respondent no. 5, the Additional District Magistrate and District Land and Land Reforms Officer, Bankura with a direction upon him to revisit the issue and reconsider the application of the appellant for grant of five years mining lease. The respondent no. 5 shall pass a reasoned order disposing of the appellant's application in accordance with law and the applicable rules within a period of four weeks from the date of receipt of a copy of this order after giving an opportunity of hearing to the appellant or his authorized representative. The order so passed by the respondent no. 5 shall be communicated to the appellant within a week from the date of the order. We make it clear that in case the respondent no. 5 does not allow the appellant's request for five years lease, cogent reasons therefor, even if briefly, should be indicated in the reasoned order.

The other aspect of the matter is that the appellant has applied for mining lease in respect of 24 acres of land. The two years lease that was granted in February 2014 was in respect of seven acres of land. In the event, the respondent no. 5 is of the opinion that lease in respect of 24 acres cannot be granted in favour of the appellant, reasons for that should also be indicated in the reasoned order.

We have not gone into the merits of the appellant's claim. The respondent no. 5 shall take an informed decision on the appellant's application in accordance with law keeping in mind the observations made in this order

regarding recording of reasons in the order to be passed by him.

The appeal and the connected applications are accordingly disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)