

WPA 3454 of 2022

Dinesh Khamri
Vs.
The State of West Bengal & Ors.

Adv. Rahul Karmakar,
Adv. Kalyan Sengupta,

...for the petitioner.

Adv. Sanjay Saha,

...for the respondent no.7.

Adv. Ansar Mondal,
Adv. Sougata Mitra,

...for the State.

Report in the form of affidavit submitted by the 7th respondent and the exception used by the petitioner thereto are taken on record

It is contended on behalf of the petitioner that the petitioner was granted long term mining lease by virtue of a deed of lease registered on January 31, 2017 for a period of 5 years which expired on January 30, 2022. Due to COVID 19 pandemic and nationwide lockdown declared by the Government, the petitioner was unable to carry on mining operation for about 20 months and prays for extension of the lease for the said period.

It is submitted on behalf of the petitioner that the petitioner received a notice on 25th January, 2022 issued by the Additional District Magistrate and District Land & Land Reforms Officer, Jhargram requesting the petitioner to stop all type of mining activities and remove all men and machinery from the block in question on expiry of the lease

period. The petitioner immediately came up before this Court in the present writ petition praying for extension of the said period. During pendency of the writ petition an order was issued by the Department of Industry, Commerce and Enterprise, Mines Branch, Government of West Bengal on 28th February, 2022 declaring that all sand mining leases expiring till April, 2022 are extended till 31st May, 2022. The petitioner submitted a representation in this regard before the concerned authority on 11th January, 2022 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the said representation in terms of the order of the Government of West Bengal dated 28th February, 2022 by virtue of which the petitioner, though entitled to carry on mining operation till 31st May, 2022, was unable to do so as the authority refrained from issuing road challan in his favour. Learned counsel further submits that the sand mining policy introduced by a notification issued on 30th July, 2021 is a general guideline whereas the subsequent order passed on 28th February, 2022 was issued to combat the adverse situation which arose due to COVID – 19 pandemic. As such, the petitioner is entitled to extension of the deed of lease in terms of the order dated 28th February, 2022.

It is submitted on behalf of the respondents that since the petitioner did not apply for issuance of road challan before the authority for the extended period of time,

the authority was not in a position to issue such challan in favour of the petitioner.

It appears from the report in the form of affidavit submitted by the 7th respondent as well as the order of the Government of West Bengal dated 28th February, 2022 that all mining leases expiring till April, 2022 were extended till 31st May, 2022, the petitioner being a beneficiary to such order. However, since the order was issued during pendency of the writ petition, the petitioner was unable to avail of the said order as *prima-facie* appears from the record.

In view of the fact that COVID-19 pandemic disrupted all activities throughout the globe for considerable period of time, this Court is of the view that the concerned authority should be directed to consider the representation submitted by the petitioner for extension of the lease for a period of 20 months in accordance with law.

The writ petition is accordingly disposed of directing the 6th respondent to consider and dispose of the representation submitted by the petitioner dated 11th January, 2022 within one month from the date of communication of this order after affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law. In disposing of the said representation the 6th respondent should take into consideration the extension of the period of lease granted by the Government in favour of all lessees

whose lease expired within April, 2022, since the petitioner was unable to avail of the said extension as submitted by him.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

With the aforesaid observations and directions, writ petition WPA 3454 of 2022 is disposed of. There shall however, 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)