

WPA 4284 of 2022

Giridhari Dutta
Vs.
The State of West Bengal & Ors.

Mr. Mir Anowar,

...for the petitioner.

Mr. Chandi Charan De,
Ms. Reshmi Rahaman,

...for the State.

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

It is submitted on behalf of the petitioner that being the highest bidder in e-auction published on 4th July, 2017, the petitioner was granted long term mining lease by virtue of a deed registered on 21st September, 2017 and the lease is due to expire on 20th September, 2022. Due to spread of Covid-19 pandemic and lockdown declared by the Government, the petitioner was unable to carry on mining operation for substantial period of time for which he has prayed for extension of the period of lease before the concerned authority.

Learned counsel for the petitioner takes this Court to Clause 5 of Part IX of the deed of lease, which states that if through force majeure the lessee fails to fulfill any of the terms and conditions of the lease within the stipulated time, the period of such delay shall be added to the date fixed by the lease. Learned counsel has also drawn the attention of this Court to the Memorandum dated 13th May, 2020 issued

by the Deputy Secretary, Government of India to the Secretaries of all Central Government Ministries/ Departments which demonstrates that in view of the restrictions placed on the movement of goods, services and manpower on account of the lock down situation, dates for completion of contractual obligations which had to be completed on or after 20th February, 2022 shall stand extended for a period not less than three months and not more than six months. The petitioner submitted a representation before the concerned Authority on 3rd February, 2022 in this regard which is yet to be disposed by the Authorities. The petitioner prays for a direction upon the Authorities to consider the representation at the earliest.

Learned counsel for the State respondents has submitted a report, which is taken on record.

It is submitted on behalf of the respondents that there is no statutory provision for extension of lease period as provided under the West Bengal Minor Minerals Concession Rules, 2016 and the West Bengal Minor Minerals (Auction) Rules, 2016 in terms of which the lease deed has been executed. By virtue of the notification dated 20th February, 2022 being No. 118-ICE/O/MIN/GEN/02-2022 all sand mining leases expiring till April, 2022 are extended till 31st May, 2022 subject to compliance of all the terms and conditions of the lease agreement including the

environmental guidelines. The lease in question is not guided by the said notification.

Upon consideration of the submissions made on behalf of the parties and material on record, this Court is inclined to hold that as the representation submitted by the petitioner before the concerned authority is still pending, the concerned authority should be directed to dispose of the same by a reasoned order on merits within a stipulated time frame.

Accordingly, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner dated 3rd February, 2022 within a period of one month from the date of communication of this order after taking into consideration the Memorandum dated 13th May, 2020 as well as clause 5 of Part IX of the deed of lease and after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

The decision taken by the 3rd respondent shall be communicated to the petitioner within a week thereof.

With the above directions, WPA 4284 of 2022 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.)