

May 11, 2022
ARDR
(7)

WPA 6092 of 2022

Atanu Kumar Ganguly
Vs.
The State of West Bengal & Ors.

Mr. Mir Anowar,
Mr. Sanjay Saha,
...for the petitioner.
...for the WBMDTCL.

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

None appears for the State respondents despite service.

Mr. Chandi Charan De who usually appears for the State and is present in Court is requested to represent the State in this matter. The appointment of Mr. Dey be regularised by the learned Legal Remembrancer.

The petitioner is directed to serve a copy of the writ petition along with annexures thereto upon Mr. Dey in course of the day.

It is contended on behalf of the petitioner that the petitioner was granted renewal of long term mining lease on 3rd May, 2017 for a period of five years which has expired on 2nd May, 2022.

It is submitted on behalf of the petitioner that 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 9th March, 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.

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 9th March, 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 6092 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.)