

WPA 11932 of 2021

Sk. Nasim Alam
Vs.
The State of West Bengal & Ors.

Mir Anowar,

...for the petitioner.

Md. T. M. Siddiqui,
Mr. Nilotpall Chatterjee,

...for the State.

The order passed by the District Magistrate, Purba Bardhaman on June 18, 2021 rejecting the prayer of the petitioner for execution of lease deed is under challenge in the present writ petition.

It is submitted on behalf of the petitioner that pursuant to an application of the petitioner for renewal of long-term mining lease of sand granted to him, grant order was issued on 10th August, 2017 following payment of royalty, cess and penalty due from the petitioner in terms of the order dated 15th June, 2015 passed by the District Magistrate, Bardhaman. In terms of the grant order, the petitioner was required to submit draft mining lease deed together with financial assurance within three months from the date of order and also Environmental Clearance Certificate within six months from the order. The petitioner received the Environmental Clearance Certificate on 5th December, 2018 and the bank guarantee was issued on 9th January, 2019. The petitioner applied for execution of the deed of lease

before the authority on 8th April, 2019. The prayer of the petitioner has been rejected by the authority on the ground of delay in submission of the same as well as violation of the terms of the grant order issued on 10th August, 2017.

Learned counsel appearing for the State respondents submits that the delay has not been sufficiently explained for which the petitioner's prayer was rejected by the authority.

It appears from the record that in terms of Clause (2) of the grant order, the petitioner was supposed to submit the draft mining lease deed together with financial assurance within a period of three months from the date of order and Environmental Clearance Certificate within six months from the issuance of the order. The Environmental Clearance Certificate was received by the petitioner only on 5th December, 2018, i.e. after expiry of the stipulated period of time. The bank guarantee was issued on 9th January, 2019 and the petitioner applied for execution of the deed of lease on 8th April, 2019.

It is evident from the record that there has been some delay on the part of the petitioner in applying for the Environmental Clearance Certificate, the bank guarantee and also submitting his application for execution of the deed of lease. The impugned order

indicates that such delay was not properly explained by the petitioner before the authority.

In the premises, this Court is of the view that as the petitioner has submitted the necessary documents for execution of the deed of lease in terms of the grant order dated 10th August, 2017 and seeks execution of the deed of lease in his favour, the petitioner ought to be given an opportunity to approach the competent authority and explain the delay caused in complying with the terms of the grant order.

The competent authority is directed to reconsider the case of the petitioner in a liberal manner and further consider the execution of the deed of lease in favour of the petitioner after hearing the petitioner on the issue.

The order dated 18th June, 2021 passed by the District Magistrate, Purba Bardhaman is set aside.

The petitioner is at liberty to approach the competent authority with a fresh prayer for reconsideration of his case/execution of the deed of lease in his favour within a fortnight from date. The competent authority shall consider the prayer of the petitioner liberally after giving reasonable opportunity of hearing to the petitioner and complete the entire exercise within six weeks from the date of receipt thereof.

With the above observations and directions, WPA 11932 of 2021 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)