

21.09.2022
rc/ct.no.10
Item No.112

WPA No. 11394 of 2022

Mr. Mir Anowar ...for the petitioner

Mr. Chandi Charan De
Mr. Soumitra Bandyopadhyay
Mrs. Reshmi Rahaman ...for the State

Mr. Sanjay Saha
Mr. Subhasish Bhattacharya ...for the WBMDTC Ltd.

Affidavit of service filed in Court today is taken on record.

Heard learned counsel appearing on behalf of the parties.

Being the highest bidder in the e-auction for long term mining lease floated on 01.02.2017 and upon depositing the requisite fees the petitioner was granted long term mining lease vide registered deed on 29.03.2017 for a period of 5 years which has expired on 28.03.2022.

Learned counsel for the petitioner submits that due to Covid-19 pandemic and lockdown declared by the Government, the petitioner was unable to carry on mining operation for a substantial period of time and has prayed for extension of the period of lease before the Authority. The petitioner has drawn the attention of the Court to a letter issued by the District Magistrate and Collector, Paschim Burdwan on 07.07.2021 which demonstrates that all sand mining activities in the bank and bed of River Ajoy, particularly Blocks – Jamuria and Barabani were

stayed by an order of the Hon'ble National Green Tribunal passed on 30.06.2021.

The petitioner was allowed to resume mining activity only by an order dated 10.06.2022.

The petitioner also draws the attention of this Court to Clause 5 of Part-IX of the deed of lease which states that failure on the part of the lessee to fulfill any of the terms and conditions of the lease shall not give the State Government any claim against the lessee or be deemed a breach of this lease, in so far as such failure is considered by the said Government to arise from force majeure and period of such delay shall be added to the period fixed by the lease.

The petitioner submitted representation in this regard before the concerned authority on 04.03.2022 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the said representation at the earliest.

It is submitted on behalf of the State-respondents that the 3rd respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner on 04.03.2022 within a period of six weeks from the date of communication of this order, after giving reasonable

opportunity of hearing to all the affected parties including the petitioner, in accordance with law.

With the above observations and directions this writ petition is disposed of.

There shall be, however, 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)