

WPA 17407 of 2022

Success Niryat Private Limited
Vs.
The State of West Bengal & ors.

Adv. Somnath Roy Chowdhury,
...for the petitioner.
Adv. Sirsanya Bandyopadhyay,
Adv. Arka Kumar Nag,
...for the State.

Written instruction submitted by the State
respondents is taken on record.

Heard learned counsels for the parties.

The petitioner was granted long term mining lease vide a lease of deed executed on November 27, 2017 for a period of five years and obtained possession of the plot on 13th December, 2017. The petitioner continued extraction work from December, 2017 to April, 2018 and was unable to continue with the same thereafter due to sudden change in the course of the river. The petitioner was again able to extract sand from the plot in question from January, 2021 and has been continuing the same till date. The petitioner submitted a representation before the concerned authority praying for extension of period of lease on the ground that he was unable to continue with mining operation for a substantial period of time due to force majeure but the said representation was turned down by the authority without providing an opportunity of hearing to the petitioner and also without assigning any reason therefor. The petitioner

seeks liberty to submit a comprehensive representation before the concerned authority in this regard and prays for a direction upon the authority to consider the representation at the earliest.

Per contra, learned counsel for the State respondents submits that there is no provision for extension of the lease period under any Act or Rule prevalent at present. The ground taken by the petitioner for not being able to extract sand from the plot in question is not covered by the force majeure clause as stated in Clause 5 of Part IX of the deed of lease. However, learned counsel submits that the petitioner may approach the authority with the representation which may be dealt with by the authority on merits in accordance with law.

In view of the above, the writ petition is disposed of with liberty to the petitioner to submit a comprehensive representation ventilating his grievance before the 4th respondent within a fortnight from date. The 4th respondent is directed to consider and dispose of the representation submitted by the petitioner within a month from date of receipt thereof after affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

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

It is made clear that this Court has not gone into the merits of the case and the petitioner shall be at liberty to

place his contention before the authority at the time of hearing.

With the aforesaid directions, WPA 17407 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.)