

18.08.2022
rc/ct.no.10
Item No.71

WPA No. 17490 of 2022

Mr. Mir Anowar ...for the petitioner

Mr. Chandi Charan De ...for the State

Mr. Sanjay Saha

Mr. Subhasish Bhattacharjee...for the WBMDTC Ltd.

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

None appears on behalf of the State respondents despite service.

Mr. Chandi Charan De, learned counsel who usually appears on behalf of the State and is present in Court today, is requested to represent the State-respondents in this case. The office of the learned Legal Remembrancer is directed to regularise the appointment of Mr. Chandi Charan De in this case.

The petitioner is directed to serve a copy of this writ petition to Mr. De in course of this day.

The petitioner submits that long-term mining lease was granted in his favour for a period of five years by virtue of registered deed dated 27.03.2019 and the term of the lease shall expire on 26.03.2024. Due to 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 draws the attention of the court to Clause 5 of part IX of the deed of lease which states that in the event of delay on the ground of force majeure the period of such delay shall be added to the period of 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, 2020 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 13.09.2021 in this regard which is yet to be disposed of by the Authority. The petitioner prays for a direction upon the Authority to consider the representation at the earliest.

It is submitted on behalf of the State respondents that the 3rd respondent be directed to consider the representation within a stipulated period of time.

Upon consideration of the submission made on behalf of the parties and material on record, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by

the petitioner dated 13.09.2021 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 affording reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

With the above directions, W.P.A. 17490 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)