

WPA 19221 of 2021

Sk. Sajahan
Vs.
State of West Bengal & Ors.

Mr. Mir Anowar,
Mr. Soumitra Bandyopadhyay,
Mr. Priyabrata Batabyal,
...for the petitioner.
...for the State.

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

The contention of the petitioner, in a nutshell, is that being the highest bidder in e-auction for grant of long term mining lease, the petitioner was granted long term mining lease for five years by virtue of a deed executed and registered on 15th November, 2017 and the term of lease expires on 14th November, 2022. Due to Covid-19 pandemic and lockdown declared by the Government, the petitioner was unable to carry on mining operation for a considerable period of time for which he has prayed for extension of the period of lease by representation submitted before the authority on June 10, 2021.

Learned counsel has taken the Court to Clause 5 of Part-IX the deed of lease which demonstrates that in the event of delay on the ground of force majeure the period of such delay shall be added to the period 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 14th November, 2022 shall stand extended for a period not less than three months and not more than six months. The petitioner prays for a direction upon the Authorities to consider the representation submitted by him at the earliest.

Learned counsel for the State respondents submits a report, which is taken on record. In raising objection to the contention of the petitioner, it is submitted on behalf of the State respondents that as per Rule 21(1) of the West Bengal Minor Minerals Concession Rules, 2016 extension of a lease can be considered only when the mining operation has not commenced within one year from the date of lease or when such operation could not be undertaken for more than one year continuously. Learned counsel further submits that the *force majeure* clause in the deed cannot be equated with pandemic or lockdown declared by the Government. Further the notification issued by the Ministry of Environment, Forest and Climate Change of 27th November, 2020 is applicable only in case of lease deeds whose validity is expiring in the financial year 2020-21 which is not the case

in the present writ petition. According to learned counsel, the petitioner is not entitled to extension of the period of lease.

Having considered the submissions 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 10th June, 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.

The decision taken by the 3rd respondent shall be communicated to the petitioner within a week thereof.

With the above directions, W.P.A. 19221 of 2021 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.)