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W.P.A. 19255 OF 2021

(Via Video Conference)

M/s. Swastik Traders

Vs.

The State of West Bengal & Ors.

Mr. Probal Mukherjee
Mr. Somnath Roy Chowdhury
Ms. Arpita Chowdhury.

.... For the Petitioner

Mr. Sirsanya Bandyopadhyay
Mr. Arka Kumar Nag.

.... For the Respondents/
State

Mr. Shyama Prasad Purkait
Ms. Moumita Modal.

.... For the Respondent
Nos. 9 to 15

It is submitted on behalf of the petitioner that being the highest bidder in tender floated on July 4, 2017, the petitioner was granted mining lease in respect of 12.35 acres of sand plot being No.1370(P) and 482 (P) in J.L. No.96, Block – Datan, District – Paschim Medinipur.

Letter of Intent was issued in favour of the petitioner on August 30, 2017 and the petitioner obtained Environmental Clearance Certificate from the second respondent on November 7, 2017.

It is submitted on behalf of the petitioner that the petitioner learnt that a survey, mapping the status of the sand sources in the district, was not held by the authority prior to floating the auction and it was found that manual mining from the said sand sources was not possible.

Further, all kinds of sand mining was suspended by an order of the Hon'ble National Green Tribunal passed on September 4, 2018. The petitioner being unable to continue with the mining work in the plot in question, applied for surrender of the sand plot and refund of the partial bid amount submitted by him before the authority. The petitioner submitted several representations in this regard before the authority, the last of which was submitted on October 6, 2021. The said representation is still pending. The petitioner prays for a direction on the authority to consider the said representation.

In refuting the submissions made on behalf of the petitioner, learned counsel appearing for the State respondent submits that the petitioner was aware of the order of the National Green Tribunal since 2018 but chose to sit over it for a considerable period of time. The petitioner has also not taken a site visit to the concession area to ascertain the site conditions, location, communication, climate, availability of power and other relevant matters as required under Clauses 6.3 and 6.4 of the notice inviting e-auction. The representations submitted by the petitioner do not explain the delay or the inaction on the part of the petitioner. There being no plausible explanation for the delay in filing the writ petition, the writ petition cannot be considered.

It appears from the submissions made on behalf of the parties as well as the material on record that several disputes of fact pertaining to the issue of grant of tender as well as surrender of the same are involved in the matter. The comprehensive representations submitted by the petitioner before the District Magistrate, Paschim Medinipur on March 13, 2019 deals with the entire grievances of the petitioner and this Court is of the view that the said representations should be considered by the concerned authority after giving an opportunity of hearing to all the interested parties including the petitioner.

In view of the above, the writ petition is disposed of directing the third respondent to consider and dispose of the representation submitted by the petitioner dated October 6, 2021 within a period of one month from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

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

However, there shall be no order as to costs.

Since no affidavit has been invited, the allegations made in the writ petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished expeditiously on usual undertaking.

(Suvra Ghosh, J.)