

19.09.2022
rc/ct.no.10
Item No.108

WPA No. 21186 of 2022

Mr. Ashok Kumar Banerjee
Mr. Arijit Dey ...for the petitioners

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

Mr. Sanjoy Saha
Mr. S. Bhattacharjee for the WBMDTC Ltd.

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

Heard learned counsels for the parties.

Being the highest bidder in the e-auction floated by the State-respondents on 30.01.2017 and upon depositing the entire requisite amount, the petitioners were granted long term mining lease for a period of 5 years vide a deed of lease dated 17.11.2017. Due to a notification dated 25.03.2021 issued by the District Magistrate and Collector, Purba Bardhaman imposing restrictions on movement of all kinds of heavy loaded goods vehicles through the road leading to the mining block of the petitioners, for which the petitioners were unable to continue mining operation till 22.02.2022 when by a subsequent notification the said restriction was withdrawn by the authority.

Learned counsel for the petitioners takes this Court to Clause 5 of part IX of the deed of lease which demonstrates 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 petitioners submitted a representation for extension of the period of lease before the concerned authority on 18.08.2022 which is yet to be considered. The petitioners pray for a direction upon the authority to consider the said representation in terms of Clause 5 of Part IX of the deed of lease as well as the notifications issued on 25.03.2021 and 22.02.2022.

Learned counsel for the respondents submits that the 2nd respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representation submitted by the petitioners within six weeks from the date of communication of this order in terms of Clause 5 of Part-IX of the deed of lease as well as the notifications issued on 25.03.2021 and 22.02.2022 after affording reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

At the time of hearing the petitioners are at liberty to place all relevant documents before the authority.

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

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)