

03
22.12.2022
Ct. No.10
b.das

WPA 21427 of 2022

Miraj Sk.
Vs.
The State of W. B. & Ors.

Mr. Subir Sanyal
Mr. Joy Chakraborty
Mr. Partha Sarathi Ghosh
Mr. S. Dinda
Ms. I. Ghosh ...for the petitioner.

Mr. Ansar Mandal
Ms. S. Bhattacharya ...for the State.

Heard learned counsels for the parties.

Pursuant to an earlier order passed by this Court in WPA 11971 of 2022 on 30th June, 2022 directing the concerned authority to consider the representation submitted by the petitioner therein for renewal of long-term mining lease in his favour, the representation was taken up for consideration by the District Magistrate, Birbhum and turned down by an order passed on 26th July, 2022. The said order is assailed in the writ petition.

It is submitted on behalf of the petitioner that since the plot in question in respect of which the lease was granted is admittedly a raiyati land belonging to the petitioner, the West Bengal Sand (Mining, Transport, Storage and Sale) Rules, 2021, which has been relied upon by the authority in rejecting his representation, is not

applicable herein. The petitioner has admittedly cleared all the dues in respect of the mining lease.

Learned counsel appearing for the respondents candidly submits that the said lease is not governed by the Rules of 2021. It is further admitted that there are no outstanding dues of the petitioner in respect of the said lease.

The representation submitted by the petitioner was rejected primarily on the ground that the Sand Rules of 2021 do not provide for renewal of existing mining lease. The said Rules admittedly do not govern the case of the petitioner. The question of auction as recorded in the order impugned, also does not arise in case of a raiyati land.

In view of the above, the order impugned passed by the District Magistrate, Birbhum on 26th July, 2022 is liable to be set aside and is accordingly set aside.

The District Magistrate, Birbhum, being the 3rd respondent herein, is directed to reconsider the representation submitted by the petitioner in the light of the observation made in this order and dispose of the same within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

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

Pending disposal of the representation, no coercive steps shall be taken by the State respondents against the petitioner in respect of the plot in question.

With the above directions the writ petition being WPA 21427 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.)