

WPA 21539 of 2022

Subrata Dey
Vs.
The State of West Bengal & Ors.

Mr. Subir Sanyal,
Mr. Joy Chakraborty,
Mr. Sandip Dinda,

...for the petitioner.

Mr. Sanjay Saha,
Mr. Subhasish Bhattacharya,

...for the WBMDTCL.

Mr. Chandi Charan De,
Mr. Anirban Sarkar,

...for the State.

Being a successful bidder in e-auction held on 24th December, 2016, the petitioner was granted long term mining lease vide deed dated 16th May, 2017 for a period of five years.

Learned counsel for the petitioner has taken this Court to several annexures to the writ petition which clearly demonstrate that the petitioner was unable to continue with mining operation due to obstructions and hindrances caused by local people and the petitioner was also not allowed to construct the temporary road for the purpose of carrying materials for mining due to such obstructions though permission was granted to him by the authorities. The COVID-19 pandemic also stood in the way of the petitioner in operating his mining block, for a considerable period of time.

Learned counsel for the petitioner has drawn the attention of the Court to Clause 5 of Part IX of the deed of lease which is set out hereinbelow:

“Failure on the part of the Lessee/Lessees to fulfill of the terms and conditions of this lease shall not give the State Government any claim against the Lessee/Lessees 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 if through force majeure the fulfillment by the Lessee/Lessees of any of the terms and conditions of this lease be delayed, the period of such delay shall be added to the period fixed by this lease. In this clause the expression “force majeure” means act of God, war, insurrection, riot, civil commotion, strike, earthquake, tide, storm, tidal wave; flood, lighting, explosion, fire, and other happenings, which the Lessee/Lessees could not reasonably prevent or control.”

The petitioner seeks to submit a comprehensive representation before the concerned authority for extension of the mining lease on the said grounds and prays for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the State respondents submits that the 4th respondent may be directed to consider the representation submitted by the petitioner in accordance with law.

In view of the above, the writ petition is disposed of with liberty to the petitioner to submit a comprehensive representation along with all relevant documents before the 4th respondent within seven days from date. The 4th respondent is directed to consider and dispose of the representation within one month from the date of receipt thereof after affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

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

With the above directions, WPA 21539 of 2022 is disposed of. There shall however, 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)