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jdt.

14.11.2022
jb.

W.P.A. 23353 of 2022
(Firoz Alam vs. State of West Bengal & Ors.)

Mr. Debasish Saha
Moniruzzaman
Jahangir Badsha
.... For the Petitioner

Mr. Amal Sen
Mr. Lalmohan Basu
.... For the State

Affidavit of service filed on behalf of the petitioner is taken on record.

Report submitted on behalf of the respondents is taken on record.

The grievance of the petitioner is that the application made by the petitioner in prescribed form before the concerned authority for grant of short term mining lease in accordance with the notification issued by the Government of West Bengal, Department of Industry, Commerce and Enterprises, Mines Branch on January 31, 2022 has not been considered by the authority till date.

Learned counsel for the petitioner has referred to Rule 11 of the West Bengal Sand (Mining,

Transportation, Storage and Sale) Rules, 2021 which demonstrates that the District Level Sand Committee or West Bengal Mineral Development and Training Corporation Limited with the prior approval of the State Government, may grant short term mining licence for carrying out sand mining under exceptional circumstances. In the said Rule, exceptional circumstances include judicial intervention, non availability of continuous stretch of the minimum area specified under these Rules due to hydro geological conditions of the rivers and unsuitability of any stretch for sustaining the period specified in these rules owing to possible change of river-flow pattern. The petitioner seeks liberty to submit a comprehensive representation disclosing the exceptional circumstances in support of his prayer and prays for a direction upon the authority to consider such representation along with application in the prescribed form within a stipulated time frame.

Placing reliance on the report submitted by the Additional District Magistrate and District Land and Land Reforms Officer, Purulia, learned counsel for the respondents submits that the application made by the petitioner is bereft of the exceptional circumstances as required under the Rules. Also, the Commerce and Industries Department has not published any guidelines for grant of short term mining lease.

Be that as it may, since the petitioner intends to submit a comprehensive representation stating his contention as made out in the writ petition including the exceptional circumstances before the concerned authority along with application in prescribed form, the writ petition is disposed of with liberty to the petitioner to submit such representation before the concerned authority within seven days from date.

The concerned authority being the 5th respondent herein is directed to consider and dispose of the said representation along with application in prescribed form within one month from the date of communication of this order after affording reasonable opportunity of hearing to 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.

It is made clear that this Court has not gone into the merits of the case and the petitioner shall be at liberty to place his contention before the concerned authority at the time of hearing and the concerned authority shall consider the representation along with the application in prescribed form submitted by the petitioner independently, in accordance with law without being influenced by any observation made in the body of this order.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)