

01.03.2022
Item no.48.
Court No.6.
AB

F.M.A. 4692 of 2016

Shaguffta Iasmin

Vs

The State of West Bengal & Others

Mr. Rampada Pal,
Ms. Indrani Palfor the Appellant.

An order dated August 22, 2016, passed by the learned Single Judge, has been challenged in this appeal.

It appears that the District Magistrate, Burdwan, on June 15, 2015, granted a renewal of a mining lease in favour of the writ petitioner for a further period of five years subject to payment of a penalty amounting to Rs.4,88,666/-.

The writ petitioner challenged the said imposition of penalty.

On consideration of the affidavit filed on behalf of the State, the learned Single Judge was of the view that the penalty levied by the District Magistrate, Burdwan did not call for any interference since the same was quantified in terms of the West Bengal

Minor Minerals Rules, 2002, after taking into consideration all the relevant factors.

The learned Single Judge granted liberty to the writ petitioner to deposit the said amount of Rs.4,88,666/- within a period of six weeks from the date of the order before the appropriate authority, with a further direction that if such deposit was made, the concerned authority should renew the mining lease in favour of the writ petitioner for a further period of five years as observed in the order dated June 15, 2015, issued by the District Magistrate, Burdwan.

Before us, the appellant submits that she is now willing to deposit the said amount of penalty if the concerned authority grants a further lease of five years in her favour.

The appellant refers to Rule 62 of the West Bengal Minor Mineral Concession Rules, 2016, and contends that since the application for renewal of lease was made before the said Rule came into operation, her application should be decided in terms of the West Bengal Minor Minerals Rules, 2002.

We cannot accept the contention of the appellant. Admittedly, the lease was directed to be renewed by the concerned District Magistrate for a period of five years with effect from June 15, 2015.

That being the position, the tenure of the lease would have expired in the month of June, 2020.

Since the new Rule namely, West Bengal Minor Mineral Concession Rules, 2016, is already in operation, at this juncture there is no scope for granting any further lease in favour of the writ petitioner on the basis of her application made in terms of the West Bengal Minor Minerals Rules, 2002.

In our view, the appeal has become infructuous since even if the appellant deposits the penalty amount of Rs.4,88,666/-, no fresh lease in terms of the earlier Rules can be granted in her favour.

In that view of the matter, the appeal being FMA No.4692 of 2016 stands dismissed. Dismissal of the appeal, however, will not prevent the appellant from applying for a fresh lease in terms of the West Bengal Minor Mineral Concession Rules, 2016.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)