

WPA 26303 of 2022

Ma Sarbamangala Quality Sand & ors.
Vs.
The State of West Bengal & Ors.

Adv. Kallol Basu,
Adv. Suman Banerjee,

...for the petitioners.

Adv. Sanjay Saha,
Adv. Subhasish Bhattacharyya,

...for the respondent no.2.

Adv. Chandi Charan De,
Adv. Anirban Sarkar,

...for the State.

Affidavit of service filed by the petitioners is taken on record.

Heard learned counsels for the parties.

Being the highest bidder in an e-auction floated by the respondents and upon payment of one-third of the total bid amount, deed of lease was executed and registered in favour of the petitioners on 16th November, 2018 for a period of five years. Though the petitioners were entitled to excavate sand to the tune of 1,82,22,386 cubic feet over the entire lease period of five years, they were unable to do so due to unavoidable circumstances including COVID-19 pandemic which disrupted the activities throughout the globe. The petitioners submitted a representation before the concerned authority for extension of the period of lease, which is yet to be considered. The petitioners pray for a direction upon the authority to consider the said representation at the earliest.

It is submitted on behalf of the petitioners that the requisition made by petitioner no.1 for issuance of challan for excavation of sand on and from 16th November, 2022 was refused by the authority who informed the petitioners that the petitioners would receive challan on and from 1st April, 2023 and not prior to that. Learned counsel submits that since the lease of the petitioners expires on 15th November, 2023, the petitioners shall be enable to lift the requisite quantum of sand within the period of lease if challans are not issued in their favour with effect from November, 2022. It is further submitted that the petitioners shall not be able to extract sand during the monsoon season, soon after which the lease is due to expire.

It is submitted on behalf of the State respondents that both the prayers of the petitioners may be considered by the authority upon affording reasonable opportunity of hearing to the petitioners as well as respondent no.2.

Upon consideration of submission made on behalf of the parties, this Court is inclined to hold that the 4th respondent be directed to consider and dispose of the representation dated 20th September, 2022 submitted by the petitioner with regard to extension of the period of lease, within a period of one month from the date of communication of this order, upon affording reasonable opportunity of hearing to all the interested parties including the petitioners and the 2nd respondent, in accordance with law.

In considering the said representation the 4th respondent shall also consider recommending issuance of challan in favour of the petitioners with effect from 16th November, 2022 in terms of the lease deed as well as the Mining Plan in order to enable the petitioners to excavate the required quantum of sand within the period of lease. In the event such recommendation is made by the authority, the 2nd respondent shall act upon such recommendation forthwith.

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

It is made clear that this Court has not gone into the merit of the case and the authority shall be at liberty to take an independent decision upon considering the submission made on behalf of the stakeholders as well as the documents place before it, without being influenced by any observation that may have been made in this order.

With the aforesaid observations and directions, WPA 26303 of 2022 is disposed of.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)