

27.04.2022
rc/ct.no.10
Item No.48

WPA No. 27656 of 2017
Sk. Hasmat Ali
Versus
State of West Bengal & Ors.

Mr. Kushal Chatterjee ...for the Petitioner

Mr. T.M.Siddique
Mr. Nilotpall Chatterjee ...for the State

The petitioner pleads violation of principle of natural justice.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner applied for long term mining lease in terms of the West Bengal Minor Minerals Rules, 2002 before the respondent authority and a similar application was also filed before the authorities by one Ashok Kumar Saha. Both the applications were taken up for consideration by the District Magistrate and Collector, Burdwan and by an order dated November 14, 2012 the prayer of the petitioner was rejected by the authority who allotted half portion of the plot in question in favour of the other applicant, Ashok Kumar Saha. Subsequently a petition filed by this petitioner along with one Mihir Ghosh for long term mining lease was allowed by the same authority being the District Magistrate and Collector, Burdwan by an order dated May 24, 2013 allotting the plot in question equally between the applicants. The petitioner submitted a representation

before the concerned authority on September 20, 2017 against the order of rejection dated November 14, 2012 which is yet to be disposed of. The petitioner prays for a direction upon the authority to consider the said representation.

It is submitted by the learned counsel appearing on behalf of the State-respondents that with the advent of the West Bengal Minor Minerals Concession Rules, 2016, the only option for the petitioner is to participate in the e-auction for grant of long term mining lease. The order impugned was passed on November 14, 2012 whereas the representation was submitted only on September 20, 2017, i.e. after promulgation of the 2016 Rules. In view of the same, the prayer of the petitioner ought to be rejected as grant of mining lease is presently governed by the 2016 Rules.

As the petitioner prays for consideration of his representation which is pending before the authority, this Court is of the view that the writ petition be disposed of directing the concerned authority to consider the representation at the earliest.

Accordingly, the writ petition is disposed of directing the respondent no. 3 to consider and dispose of the representation submitted by the petitioner dated November 14, 2012 within one month from the date of communication of this order after 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.

With the above observations and directions this writ petition being WPA No. 27656 of 2017 is disposed of.

There shall be, however, 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)