

02
28.09.2022
Ct.No.10
b.das

In The Circuit Bench at Jalpaiguri

WPA No. 2714 of 2022

Ambey Abasan Pvt. Ltd. & Anr.

Vs.

State of W. B. & Ors.

Mr. Mir Awowar ...for the petitioners

Mr. Ashim Kr. Ganguly
Mr. Bellal Shaikh ...for the State.

Mr. Sanjoy Saha
....for the WBMDTC Ltd.

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

Written instruction submitted on behalf of the State respondents is taken on record.

It is submitted on behalf of the petitioners that being the highest bidder in e-auction for grant of mining lease held on January 09, 2017, the petitioner was granted mining lease which was executed and registered on 12th October, 2017 and is due to expire on 11th October, 2022.

Due to Covid-19 pandemic and lockdown declared by the Government, the petitioner was unable to carry on mining operation for substantial period of time for which he has prayed for extension of the period of lease before the concerned authority.

Learned counsel draws the attention of the court to Clause 5 of part IX of the deed of lease which states that in the event of delay on the ground of force majeure the period of such delay shall be added to the period of lease. Learned counsel has also drawn the attention of this Court to the Memorandum dated 13th May, 2020 issued by the Deputy Secretary, Government of India to the Secretaries of all Central Government Ministries/Departments which demonstrates that in view of the restrictions placed on the movement of goods, services and manpower on account of the lock down situation, dates for completion of contractual obligations which had to be completed on or after 20th February, 2020 shall stand extended for a period not less than three months and not more than six months.

The petitioners submitted a representation before the concerned Authority on 21st February, 2022 in this regard which is yet to be disposed by the Authority. The petitioners pray for a direction upon the Authority to consider the representation at the earliest.

It is submitted on behalf of the State respondents that the 2nd respondent be directed to consider the representation within a stipulated period of time.

Upon consideration of the submissions made on behalf of the parties and material on record, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representation submitted by

the petitioner dated 21st February, 2022 within a period of six weeks from the date of communication of this order after taking into consideration the Memorandum dated 13th May, 2020 as well as clause 5 of part IX of the deed of lease and after affording reasonable opportunity of hearing to all the interested parties including the petitioners, in accordance with law.

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

With the above directions, the writ petition being W.P.A. 2714 of 2022 is thus disposed of.

However, there shall 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)