

28.02.2023
rc/ct.no.10
Item No.44

WPA No.1724 of 2023

Mr. Abhratosh Majumdar
Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Souvik Das
Mr. Kausheyo Roy ...for the Petitioner

Mr. Chandi Charan De
Mr. Ashok Sarkarfor the State

Heard learned counsels appearing on behalf of the parties.

It is contended on behalf of the petitioner that the petitioner was granted long term mining lease for a period of 5 years vide a lease agreement executed on 21st March, 2018 with effect from 22nd March, 2018 till 22nd March, 2023. The process of excavation was stalled during the monsoon season after which the petitioner applied for issuance of transit pass before the concerned authority on 17th October, 2022 which was not responded to by the authority. The petitioner was, therefore, unable to carry on mining operation from October, 2022 to February, 2023. The petitioner has prayed for a direction upon the authority for issuance of transit pass in his favour for a period of 5 months in addition to the period of lease since he was unable to carry on excavation during the said period.

Placing reliance on the report in the form of affidavit submitted on behalf of the State-respondents

learned counsel for the State submits that the concerned authority stopped issuance of transit pass in favour of the petitioner due to a criminal case pending against the petitioner for illegal mining activities in respect of a separate mining block.

Learned counsel for the State, in his usual fairness, submits that the authority ought not to have withheld issuance of transit pass in favour of the petitioner due to pendency of a criminal case against him in respect of some other block having no nexus with the block in question.

In view of the above, this Court is inclined to hold that no fruitful purpose shall be served by keeping the writ petition pending. The concerned authority, being the 3rd respondent herein, be directed to take necessary steps for issuance of transit pass in favour of the petitioner in accordance with law.

The writ petition is accordingly disposed of directing the 3rd respondent to take necessary steps for issuance of transit pass/ challan in favour of the petitioner on online mode for 5 months in addition to the period of the lease excluding the period which may be intervened by monsoon, if any, in order to compensate for the period lost by the petitioner from October, 2022 to February, 2023 during which the petitioner was unable to carry on mining operation due to no fault on his part.

Such exercise should be completed within a period of two weeks from the date of communication of this order.

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)