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16.02.2023
Ct. No.10
b.das

W.P.A. 2508 of 2023

Rabindra Nath Das
Vs.
State of W.B. & Ors.

Mr. Subrata Bhattacharjya ...for the petitioner.

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

Supplementary affidavit filed by the petitioner is taken on record.

It is contended on behalf of the petitioner that being the highest bidder in the e-auction floated by the authority, the petitioner was granted long term mining lease for a period of five years vide deed registered on 22nd February, 2018 and the term of the lease has expired on 15th February, 2023.

The petitioner was unable to carry on mining operation for considerable period of time due to covid-19 pandemic for which he has prayed for extension of the period of lease before the concerned authority.

Learned counsel for the petitioner has taken this Court to Clause 5 of part IX of the deed of lease which demonstrates 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.

The petitioner submitted representations before the concerned authority on 16th January, 2023 and 13th February, 2023 in this regard which are yet to be considered. The petitioner prays for a direction upon the authority to consider the representations at the earliest.

It is submitted on behalf of the respondents that the petitioner is not covered by the latitude granted in Clause 5 of part IX of the deed of lease since the term “force majeure” does not include covid-19 pandemic.

Learned counsel further submits that in terms of the letter of intent issued in favour of the petitioner on 24th January, 2017, the petitioner ought to have submitted the application for extension of validity of the letter of intent within the time stipulated in the said document.

Be that as it may, since the representations submitted on behalf of the petitioner are pending before the authority, the authority be directed to consider the said representations in accordance with law.

In view of the above, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representations submitted by the petitioner dated 16th January, 2023 and 13th February, 2023 within a period of six weeks from the date of communication of this order after affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

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

It is made clear that this Court has not gone into the merits of the case and the authority shall be at liberty to deal with the representations submitted by the petitioner independently and without being influenced by any observation which may have been made in this order.

With the above directions, the writ petition being W.P.A. 2508 of 2023 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.)