

02
12.09.2023
Ct. No.10
b.das

WPA 7525 of 2023

Subrata Saha
Vs.
The State of W.B. & Ors.

Mr. Subhabrata Dutta
Quazi Sabir Ahmed
Mr. Subhojit Seal ...for the petitioner.

Mr. L. M. Mahata
Mr. Rudranil De ...for the State.

Mr. Sanjay Saha
Mr. Subhasish Bhattacharya ...for WBMDTCL.

By consent of the parties the writ petition is treated as on day's list and taken up for consideration.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that being the highest bidder in the e-auction floated by the respondents inviting tender dated 4th November, 2017 and upon fulfilment of all requisite formalities, long term mining lease was executed in favour of the petitioner for a period of five years on 14th November, 2018 which is valid till 13th November, 2023. The petitioner was unable to continue with mining operation for considerable period of time for the following reasons:-

Firstly, the Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman, by a notification dated 2nd January, 2020, suspended excavation of sand from some sand blocks including that of the

petitioner from 1st January, 2020 which was lifted on and from 13th May, 2020 by an order passed by the District Magistrate, Purba Bardhaman on the same date. Secondly, mining operation was further suspended due to construction of road between Shikarpur and Galsi by a memo issued by the Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman on 16th March, 2021 and the suspension was lifted on and from 8th April, 2022. Thirdly, the petitioner was unable to carry on mining operation due to advent of the covid-19 pandemic and restrictions imposed by the State as well as the Central Government on day to day activities.

Learned counsel for the petitioner has taken this Court to clause 5 of part IX of the deed of lease which enumerates that if through force majeure the fulfilment by the lessee of any of the terms and conditions of the lease deed be delayed, the period of such delay shall be added to the period fixed by the lease.

The petitioner submitted a representation in this regard before the concerned authority on 14th February, 2023 seeking extension of lease for the period he was unable to carry on mining operation due to the reasons stated above. The representation is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the representation at the earliest.

It is submitted on behalf of the respondents that the 4th respondent be directed to consider the representation submitted by the petitioner, in accordance with law.

In view of the above, the writ petition is disposed of directing the 4th respondent to consider and dispose of the representation submitted by the petitioner dated 14th February, 2023 within a period of six weeks from the date of communication of this order upon granting reasonable opportunity of hearing to all the stakeholders 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 the writ petition being WPA 7525 of 2023 is 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.)