

18
15.05.2023
Ct. No.10
b.das

W.P.A. 9645 of 2023

Arm Merchandise Pvt. Ltd.
Vs.
State of W.B. & Ors.

Mr. Ayan Banerjee
Mr. Nemaï Chandra Saha
Mr. S. Sanyal ...for the petitioner.

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

Mr. Sanjay Saha
Mr. S. Bhattacharya ...for the WBMDTCL.

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that the petitioner was granted long term mining lease for a period of five years vide deed of lease registered on 23rd April, 2018 and the term of the lease has expired on 22nd April, 2023.

The petitioner was unable to carry on mining operation for considerable period of time due to covid-19 pandemic and other factors for which he submitted a representation before the concerned authority on 9th January, 2023 for extension of the period of lease.

Learned counsel for the petitioner has taken this Court to Clause 5 of part IX of the deed of lease which demonstrates that if through force majeure the fulfilment by

the lessee of any of the terms and conditions of the lease be delayed, the period of such delay shall be added to the period fixed by this lease.

The petitioner prays for a direction upon the authority to consider his representation in the light of Clause 5 of part IX of the deed of lease at the earliest.

It is also submitted on behalf of the petitioner that the plot in question is still in possession of the petitioner.

It is submitted on behalf of the respondents that the 7th respondent be directed to consider the representation of the petitioner, in accordance with law.

In view of the above, the writ petition is disposed of directing the 7th respondent to consider and dispose of the representation submitted by the petitioner dated 9th January, 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 and in the light of Clause 5 of part IX of the deed of lease, in accordance with law.

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

Pending disposal of the writ petition, no coercive step shall be taken by the respondents against the petitioner in respect of the plot which is the subject matter of the writ petition.

With the above directions, the writ petition being W.P.A. 9645 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.)