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jdt.

12.04.2023
jb.

W.P.A. 14512 of 2022
(Pal Enterprise vs. State of West Bengal & Ors.)

Mir Anowar

.... For the Petitioner

Mr. Sanjay Kr. Saha

Mr. Subhas Bhattacharyya

.... For the WBMDTC

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

None appears for the respondents despite service.

Mr. Chandi Charan De who is present in Court and usually appears for the State is requested to represent the State in this matter. The appointment of Mr. De, learned advocate be regularised by the office of the learned Legal Remembrancer.

The petitioner is directed to serve copy of the writ petition along with annexure thereto to Mr. De in course of this day.

Heard learned counsels for the parties.

Being the highest bidder in e-auction floated on 18th November, 2017 and upon depositing the requisite fees, the petitioner was granted long term mining lease for sand for a period of five years vide registered deed dated 6th March, 2018 which is due to expire on 5th March, 2023. Due to COVID-19 pandemic and

lockdown declared by the Government, the petitioner was unable to carry on mining operation for considerable period of time. The petitioner has drawn the attention of this Court to a notification issued by the Additional District Magistrate and District Land & Land Reforms Officer, Purba Bardhaman on 2nd January, 2020 suspending extraction of sand in the sand block allotted to the petitioner along with other blocks from the said date and suspension was revoked by an order passed on 13th May, 2020. Also, due to construction of road between Sikarpur and Galshi, there was a restriction of plying vehicles from 0.00 km. To 13.30 kilometers thereby affecting the mining operation of the petitioner till 31st January, 2022. Further restriction was imposed on movement of all kinds of vehicles on the said road by the District Magistrate and Collector, Purba Bardhaman by a notification issued on 16th February, 2022 which was revoked on 7th April, 2022. The petitioner submits that he was unable to continue with mining operation throughout the said period.

The petitioner has also taken this Court to Clause 5 of Part IX of the deed of lease which demonstrates that if through force majeure the fulfillment 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 submitted a representation before the concerned authority on 10th June, 2022 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

It is submitted on behalf of the State respondents that the 3rd respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner dated 10th June, 2022 within 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 petitioners within a week thereof.

It is made clear that this Court has not gone into the merits of the case and the petitioner shall be at liberty to place his contention at the time of hearing.

With the above directions, WPA 14512 of 2022 is disposed of.

There shall however, 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)