

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA No. 21449 of 2013

**Tapas Kumar Dolui
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Mr. Ranjan Kumar Kali.

Judgement on : 13.09.2023.

Bibek Chaudhuri, J.

The petitioner has filed the instant writ petition praying for issuance of a writ in the nature of mandamus commanding the State respondents to grant quarry permit in the name of the petitioner to carry on operation of manufacturing bricks under the name and style of Mansha Brickfield situated at LR Plot Nos. 422, 424, 428 and 445 of Mouza – Kolmijore in the district of Paschim Medinipore. The petitioner has also prayed for issuance of writ in the nature of mandamus directing the respondents to assess royalty payable by the petitioner from the financial year 2011-2012 from which period Mansha Brickfield was made operational.

Before dealing with the instant writ petition it is pertinent to mention that the petitioner previously filed another writ petition which was registered as WPA/3891/2013. In the said writ petition, the petitioner challenged a notice dated 2nd January, 2013 directing him to

pay Rs.18,99,530/- on account of royalty of soil and its interest thereof with effect from 1991 to 2011-2012.

It was contended by the petitioner in the said writ petition that the petitioner purchased the brickfield from one Tapashi Pyne (Maity) by virtue of a registered deed of sale on 29th October, 2010. Therefore, he is not under obligation to pay any royalty in respect of the soil extracted from the brickfield during the period between 1991 till the date of his purchase. The said writ petition was allowed and the impugned notice dated 2nd January, 2013 was quashed.

However, the respondents were entitled to claim all taxes, royalty, cess etc. in accordance with law from the financial year 2011-2012 from the petitioner, if not already paid.

In the instant writ petition, the petitioner has prayed for issuance of quarry permit under the Mines and Minerals Rules, 1973. The petitioner filed a representation on 26th June, 2013 through his learned Advocate praying for grant of quarry permit under the provision of West Bengal Mines and Minerals Rules, 1973. The said representation has not been disposed of as yet by the concerned authority/respondents.

It is noted that the West Bengal Mines and Minerals Rules, 1973 has been repealed by West Bengal Mines and Minerals Concession Rules, 2016. It is not in dispute that previously on the subject land a brickfield was in existence. The petitioner purchased the said brickfield and to make it operational obtained trade licence from the local Gram Panchayat.

At this stage, it is for the respondent authority to dispose of the representation dated 26th June, 2013 in accordance with law and to

take a decision as to whether the petitioner is entitled to get quarry permit or not.

Under such circumstances, the instant writ petition is disposed of directing the respondents, specially the respondent no. 3 to dispose of the representation dated 26th June, 2013 in accordance with law within 60 days from the date of communication of this order.

The instant writ petition is, thus, disposed of.

There shall, however, be no order as to costs.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 90.