

17.02.2023
rc/ct.no.10
Item No.09

WPA No. 28985 of 2017

Mr. Pinaki Chakraborty ...for the Petitioner

Mr. T.M.Siddique
Mr. N. Chatterjee for the State

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

The petitioner was granted long term mining lease by the respondent authorities by a deed of lease registered on 10th February, 2009 which was extended from time to time and finally upto 31st March, 2017.

It is contended on behalf of the petitioner that the petitioner was unable to carry on extraction of sand from 1st June, 2015 to 31st March, 2016 due to construction of metal road and stoppage of plying of vehicle through the connecting road for which he applied before the concerned authority for further extension of lease which was turned down by the authority by an order passed on 28th August, 2017 with an observation that another lessee Manju Dhara continued mining operation during the said period by obtaining challans from the authority but the petitioner failed to carry on mining operation despite having the opportunity to obtain challans. As such, the petitioner failed and neglected to obtain the challans and was unable

to carry on his business due to her own fault and negligence.

Learned counsel for the petitioner takes this Court to the certificates issued by the Assistant Engineer, Burdwan East Sub-Division, PWD, Savapati, Burdwan-II Panchayat Samity, Block Development Officer, Burdwan-II, Barsul, Purba Burdwan and Prodhan, Barsul-II Gram Panchayet, Purba Barddhaman (Annexure P9 to writ petition) and submits that the petitioner was unable to carry on extraction due to closure of the approach road. The petitioner submitted further representation before the District Magistrate, Purba Medinipur on 20th September, 2017 for reconsideration of the earlier order of rejection which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation in the light of the certificates issued by the authorities as stated above within a stipulated time frame.

It is submitted on behalf of the State-respondents that the petitioner failed to avail of the opportunity of collecting the challans for his business and was unable to carry on the same due to his own fault and negligence. In view of the present position of law the petitioner has no other option but to participate in the e-auction.

Having considered the submissions made by the learned counsels appearing on behalf of the parties and the material on record, I dispose of the writ petition with a direction upon the respondent no. 2 to consider and

dispose of the representation filed by the petitioner on September 20, 2017 within a period of six weeks from the date of communication of this order, after giving reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

The 2nd respondent shall take note of the certificates referred to above while disposing of the representation of the petitioner.

The order passed by the authority shall be communicated to the petitioner within a week thereafter.

With the above observations and directions this writ petition is disposed of.

There shall be, however, 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)