

Form J(1)

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

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

WPA 225 of 2023

**Avinash Kumar Gupta
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Mr. Dipankar Saha, Adv.
**For the State : Mr. Hirak Barman, Adv.,
Ms. Bedashruti Bose, Adv.**

With

**WPA 226 of 2023
Anand Kumar Gupta
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Mr. Dipankar Saha, Adv.
**For the State : Mr. Bikramaditya Ghosh, Adv.,
Mr. Pretom Das. Adv.**

With

**WPA 227 of 2023
Biswajit Ray
Vs.
The State of West Bengal & Ors.**

For the Petitioner : **Mr. Dipankar Saha, Adv.**
For the State : **Mr. Bikramaditya Ghosh, Adv.,**
 Mr. Pretom Das. Adv.
Heard & Judgment On : **1st February, 2023.**

The petitioners are associated with Jalpaiguri District Sand Mining Lease Holders' Welfare Association. During the month of February, 2017 the petitioners were granted long term mining lease separately for a period of five years by the Additional District Magistrate and D.L and L.R.O, Jalpaiguri on behalf of the State of West Bengal for Sand and Boulder Mining from Rivers within Jalpaiguri district. After the deed of lease having being executed the petitioner had applied for Environmental Clearance Certificate and such certificate was issued in the month of February, 2018.

It is also stated by the petitioners that due con Covid-19 pandemic the petitioners were unable to carry on mining operation for a considerable period of time. During lockdown period as a result of Covid-19 pandemic the petitioners have to stop all mining activities and commercial accomplishment. It is stipulated in terms of the lease deed that in case of failure to fulfill the terms of lease, by the lessee/lessees due to "Force Mejeure" the period of such delay shall be added to the period fixed of the lease deed. It was also stated in the lease deed that in such circumstances the lessee shall be paid compensation for the loss

or damage sustained by them. Therefore, the petitioners have prayed for issuance of writ of mandamus directing the respondent No.3 and 5 to consider the representation dated 17th November, 2022 with further direction upon the respondents to act in terms of the respective lease deeds and thereby allowing or extending the period of lease for two years during the period of which the petitioners could not resume mining work.

It is submitted on behalf of the State respondents that the respondent No.3 be directed to consider the representation dated 17th November, 2022 to consider the representation within stipulated period of time.

In view of the above, the writ petition is disposed of directing the respondent No.3 to consider and dispose of the representation submitted by the petitioners dated 23.08.2022 within a period of two months from the date of communication of this order after affording reasonable opportunity of hearing to all the respondent including the petitioners in accordance with law.

The decision taken by respondent No.3 shall be communicated to the petitioners within a week thereafter.

Within the above directions, the instant writ petition is disposed of, however, without any costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

The petitioners are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)