

01
23.02.2023
Ct.No.10
b.das

In The Circuit Bench at Jalpaiguri

WPA No. 435 of 2023

**Subhash Mondal
Vs.
State of W. B. & Ors.**

Mr. Mir Awowar ...for the petitioners

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

Mr. Sanjoy Saha
Mr. S. Bhattacharya
....for the WBMDTC Ltd.

It is submitted on behalf of the petitioner that being the highest bidder in e-auction for grant of mining lease held on 7th September, 2016, the petitioner was granted mining lease which was executed and registered on 7th March, 2018 and is due to expire on 6th March, 2023.

Due to Covid-19 pandemic and lockdown declared by the Government, the petitioner was unable to carry on mining operation for substantial period of time for which he has prayed for extension of the period of lease before the concerned authority.

Learned counsel draws the attention of the Court to Clause 5 of part IX of the deed of lease which states that in the event of delay on the ground of force majeure the period of such delay shall be added to the period of lease. Learned counsel has also drawn the attention of this Court

to the Memorandum dated 13th May, 2020 issued by the Deputy Secretary, Government of India to the Secretaries of all Central Government Ministries/Departments which demonstrates that in view of the restrictions placed on the movement of goods, services and manpower on account of the lock down situation, dates for completion of contractual obligations which had to be completed on or after 20th February, 2020 shall stand extended for a period not less than three months and not more than six months.

The petitioner submitted a representation before the concerned authority on 2nd January, 2023 in this regard which is yet to be disposed of by the authority. 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 4th respondent be directed to consider the representation within a stipulated period of time.

Upon consideration of the submissions made on behalf of the parties and material on record, the writ petition is disposed of directing the 4th respondent to consider and dispose of the representation submitted by the petitioner dated 2nd January, 2023 within a period of one month from the date of communication of this order after taking into consideration the Memorandum dated 13th May, 2020 as well as clause 5 of part IX of the deed of lease and after affording reasonable opportunity of hearing

to all the interested parties including the petitioner, in accordance with law.

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

With the above directions, the writ petition being W.P.A. 435 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.)