

May 15, 2024
ARDR (965)

WPA 3848 of 2024

Basudeb Bhattacharya
Vs.
The State of West Bengal & ors.

Adv. Rabindranath Mahato,
Adv. Aritra Shankar Ray,
...for the petitioner.
Adv. Samrat Sen, Ld. AAAG,
Adv. Saikat Chatterjee,
Adv. Manali Ali,
...for the State.

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

Heard learned counsels for the parties.

The petitioner has assailed the order passed by the
District Land and Land Reforms Officer, Bankura on 13th
February, 2023 pursuant to an order of an Hon'ble Division
Bench of this Court in FMA no. 644 of 2015 dated 23rd
June, 2022. Learned counsel for the petitioner submits
that though this Court directed the concerned authority to
deal with the application filed by the petitioner for grant of
long term mining lease in terms of provision of the West
Bengal Minor Minerals Rules, 2002, the authority has dealt
with the same in terms of the West Bengal Minor Minerals
Concession Rules, 2016 as well as the West Bengal Sand
Mining Policy, 2021.

Per contra, learned counsel for the respondents
submits that a new sand mining policy has been
introduced on 30th July, 2021, wherein the West Bengal

Mineral Development Trading Corporation Limited has been designated to govern excavation, transportation, storage, sale and consumption of sand and the said authority is the lease granting authority.

In an earlier writ petition filed by the petitioner, being WP no. 15420 (W) of 2012, the concerned authority was directed to consider the mining lease application of the petitioner in the light of the relevant provisions of the West Bengal Minor Minerals Rules, 2002 as it stood prior to its amendment in 2011. The Hon'ble Division Bench in the order passed on 23rd June, 2022 directed the Additional District Magistrate and District Land & Land Reforms Officer, Bankura to revisit the issue and reconsider the application of the petitioner for grant of five years mining lease in respect of 24 acres of land as requested by the petitioner and pass a reasoned order in accordance with law within a stipulated time frame. The Hon'ble Division Bench directed the authority to assign reasons in the event the authority was not able to grant such lease for a period of five years or in respect of 24 acres of land as requested by the petitioner. In other words, the Hon'ble Division Bench directed the authority to deal with the application filed by the petitioner in the light of the provisions laid down under the West Bengal Minor Minerals Rules, 2002 and pass reasoned order in terms of the observation made in the order of the Court.

It is evident from the order impugned that the application of the petitioner was dealt with under 2016

rules as well as 2011 policy de hors the direction of the Hon'ble Division Bench. The issue with regard to the grant of mining lease for a period of five years or in respect of 24 acres of land has not been dealt with by the authority at all in the order impugned which only relies upon 2016 rules and 2021 policy. The order impugned not being in compliance with the order of the Hon'ble Division Bench, the same is required to be set aside/quashed.

Accordingly, the writ petition, being WPA 3848 of 2024 is allowed.

The order impugned dated 13th February, 2023 passed by the District Land & Land Reforms Officer, Bankura is set aside/quashed. The District Land & Land Reforms Officer, being the 5th respondent herein, is directed to reconsider the application filed by the petitioner strictly in terms of the observation made by the Hon'ble Division Bench in the order passed on 23rd June, 2022 in FMA No. 644 of 2015 and pass a reasoned order within one month from the date of communication of this order upon affording reasonable opportunity of hearing to the petitioner, in accordance with law.

Learned counsel for the petitioner has expressed his apprehension that e-auction has been floated by the authority in respect of sand block surrounding the block in respect of which his application is pending and if such auction is permitted, the sand block in question cannot be accessed by the petitioner in the event his application is allowed.

In view of the above, the concerned authority, being the 5th respondent herein, is directed to take necessary care and precaution so that the access to the block in question as claimed by the petitioner is not completely blocked as a result of e-auction of the plots surrounding the same.

With the aforesaid directions, the writ petition 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 have been 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.)