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**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

**WPA 6020 of 2023  
(Specially Assigned)**

**Rafik Sekh @ Rafik Sk.  
-Vs-**

**The State of West Bengal & Ors.**

Mr. Mir Anowar

Ms. Debanjali Payra

... for the petitioner

Mr. Soumitra Bandyopadhyay

Mr. Priyabrata Batabyal

... for the State

Mr. Sanjay Saha

Mr. Subhasish Bhattacharya

... for the respondent no.6

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

The petitioner by way of the present writ petition has challenged the order dated 10<sup>th</sup> January, 2023 of Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman, respondent no.4.

By order dated 21<sup>st</sup> November, 2022 passed in WPA 24354 of 2022, the respondent no.4 being Additional District Magistrate and District Land & Land Reforms Officer, Purba Bardhaman was directed to consider the representation of the petitioner dated 27<sup>th</sup> May, 2022 within a period of six weeks. The Additional District Magistrate and District Land & Land Reforms Officer, Purba Bardhaman pursuant to the direction passed in

the aforesaid writ petition rejected the application of the petitioner for extension of the lease period on 10<sup>th</sup> January, 2023. Challenging such order, the petitioner has preferred the present writ petition.

Mr. Sanjay Saha, learned Advocate for the respondent no.6-WBMDTCL at the outset submits that as per the West Bengal Minor Minerals Concession Rules, 2016 the impugned order of rejection is appealable under Rule 51 of the aforesaid Rules.

At this stage, Mr. Mir Anowar, learned Advocate for the petitioner seeks liberty to prefer appeal before the appellate authority against the impugned order of rejection in terms of the Rules.

Mr. Soumitra Bandopadhyay, learned Advocate for the State-respondent leaves the matter to the discretion of the Court.

In order to appreciate the aforesaid issue, it would be profitable to reproduce Rule 51 of the West Bengal Minor Mineral Concession Rules, 2016 as hereunder :

*“51. Appeal – (1) Any person aggrieved by an order made by the District Authority or any officer duly authorised by the District Authority in exercise of the powers conferred upon him by these rules, may, within thirty days from the date of communication of the order to him, prefer an appeal against the order.*

*(2) The memorandum of appeal shall be made to the concerned Divisional Commissioner, if the order appealed against has been passed by the District Authority.*

*(3) Each memorandum of appeal shall be accompanied by a treasury Challan showing the deposit of a fee of*

*Rs.1000/- (rupees one thousand) only in the government Treasury or sub-Treasury of the District concerned or in any branch of the State Bank of India doing treasury business or in the Reserve Bank of India at the credit of the State Government under the specified head.*

*(4) An appeal may be entertained even after the period specified in sub-rule (1)(a), if the applicant satisfies the appellate authority that he had sufficient reasons, for not preferring the appeal within the prescribed period.*

*(5) The order passed on an appeal shall be final and there shall be no second appeal.”*

As per the aforesaid rules any person aggrieved by an order made by the District Authority or any officer duly authorised by the District Authority in exercise of the powers conferred upon him by the rules, may, within thirty days from the date of communication of the order to him, prefer an appeal against the order. Therefore, the order of rejection passed by respondent no.4 is appealable in terms of the aforesaid provision. Since alternative efficacious relief is available to the petitioner in the form of appeal under Rule 51 of the said Rules, hence the present writ petition is not maintainable.

However, the petitioner is granted liberty to prefer appeal before the appropriate authority challenging the order passed by respondent no. 4. Since Rule 51 prescribes a period of limitation, in the event, the appeal is filed by the petitioner within fifteen days from the date of this order, the appellate-authority is requested to consider such appeal to be within the period of limitation prescribed by the statute.

With the aforesaid observation, the writ petition being **W.P.A.6020 of 2023** stands disposed of.

All connected applications, if any, stand dismissed.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

( **Bivas Pattanayak, J.**)