

13.03.2024  
Ct.654/sl.143  
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**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

**WPA 6127 of 2023  
(Specially Assigned)**

**Adyamaa Tradelink Private Limited  
-Vs-  
The State of West Bengal & Ors.**

Mr. Somnath Roy Chowdhury  
... for the petitioner

Mr. Soumitra Bandyopadhyay  
Mr. Subhasis Bandopadhyay  
... for the State

Mr. Sanjay Saha  
Mr. Subhasish Bhattacharya  
... for the respondent no.3

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

The petitioner by way of the present writ petition has prayed for direction upon respondent no.2 for adjudication of the issue raised vide notice under memo no.699(7)/MM/LR/2020 dated 7<sup>th</sup> March, 2020.

Mr. Somenath Roy Chowdhury, learned advocate for the petitioner submits that the petitioner was granted mining lease to extract sand located at plot no.445(P), J.L No.55 under P.S. Barjora, District Bankura measuring area 11.84 acres in the riverbed of river Kangsabati. On the ground of violation of the rules and regulations of sand lifting, a show cause notice was issued to the petitioner on 7<sup>th</sup> March, 2020. The petitioner submitted

his show-cause. Since the issue was not decided by the concerned authority the petitioner preferred the present writ petition. In the meantime, the District Magistrate, Bankura by its order dated 26<sup>th</sup> December, 2023 has adjudicated the issue pertaining to the show-cause notice. He submits that since the issue pertaining to the show cause notice has already been decided by the competent authority, the prayer in this writ petition has become redundant. However, he prays for leave to file appeal against the order passed by the District Magistrate, Bankura in terms of the Rule 51 of the West Bengal Minor Minerals Concession Rules, 2016

Mr. Sanjay Saha, learned Advocate for the respondent no.3-WBMDTCL categorically submits that the order passed by the District Magistrate, Bankura is an appealable order.

Mr. Soumitra Bandopadhyay, learned Advocate for the State-respondents also submits in the similar fashion.

Admittedly, the issue in the show cause notice dated 7<sup>th</sup> March, 2020 has been adjudicated by the competent authority namely District Magistrate, Bankura, respondent no.2 on 26<sup>th</sup> December, 2023.

Rule 51 of the West Bengal Minor Mineral Concession Rules, 2016 provides 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 adjudicating the issue in the show cause notice by respondent no.2 is appealable in terms of the aforesaid provision.

Upon such adjudication by respondent no.2, the prayer in the writ petition has become redundant.

However, the petitioner is granted liberty to prefer appeal before the appropriate authority challenging the order passed by District Magistrate, Bankura, respondent

no. 2. Since Rule 51 prescribes a period of limitation, in the event, the appeal is filed by the petitioner within twenty one 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.6127 of 2023** stands dismissed being redundant.

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.**)