

April 3, 2024
ARDR (704)

WPA 10556 of 2023

Ambey Abasan Pvt. Ltd.
Vs.
The State of West Bengal & Ors.

Adv. Somnath Roy Chowdhury,
...for the petitioner.
Adv. Sanjay Saha,
Adv. Subhasish Bhattacharya,
...for the respondent no.3.
Adv. Soumitra Bandyopadhyay,
Adv. Priyabrata Batabyal,
...for the State.

Heard learned counsels for the parties.

Being the highest bidder in an e-auction floated by the authority on 29th June, 2019, long term mining lease was granted in favour of the petitioner for a period of five years vide deed of lease executed on 3rd January, 2018. After execution of the deed, the petitioner found that three plots allotted to him being MCHB-2, MCHB-3 and MCHB-4 were submerged under water and there was no mining reserve therein. The Block Land & Land Reforms Officer, Chandrakona, Paschim Medinipur held field enquiry in respect of said plots and found that the plots were submerged under water having mud and the passage of carrying sand was narrow. The petitioner submitted a representation before the concerned authority for grant of alternative sand blocks and an alternative block was allotted in favour of the petitioner in place and stead of MCHB-2. The concerned authority, being the Additional District Magistrate and Block Land & Land Reforms Officer, Paschim Medinipur, by an order passed on 30th November,

2022, turned down the prayer of the petitioner for allotment of alternative plots in place of MCHB-3 and MCHB-4 primarily on the ground that upon inspection of the sand blocks conducted by the Block Land & Land Reforms Officer with the Revenue Inspector on 28th May, 2019, it was not reported that the sand blocks were not mineable. The authority continued to observe that the petitioner did not commence mining operation for a period of three years six months and one day and the lease granted to the petitioner was fit to be terminated.

Report submitted by the Block Land & Land Reforms Officer in respect of three sand blocks in question demonstrates that about ninety-five per cent area of block MCHB-2 is under water. An alternative block has been allotted to the petitioner in lieu of the same. Surprisingly, though the Block Land & Land Reforms Officer has held upon field enquiry that the entire sand blocks in MCHB-3 and MCHB-4 are submerged under water, request for alternative sand blocks made by the petitioner has been turned down. No explanation has been put forth by the authority in support of such discrimination. Since the authority allotted an alternative sand block in place and stead of MCHB-2 which was submerged under water, there was no reason for the authority to discriminate between the three plots and refuse to grant alternative sand blocks in place of MCHB-3 and MCHB-4. Also, a notice issued by the District Magistrate and Chairperson, District Committee for Competitive Bidders, Paschim Medinipur on 10th March,

2022 suggests that alternative blocks were granted to several lessees pursuant to their requests. The petitioner is similarly circumstanced with the other lessees and claims parity. Since all the three sand blocks allotted to the petitioner were found submerged under water upon field enquiry held by the Block Land & Land Reforms Officer and one alternative block has been allotted to the petitioner in lieu of MCHB-2, there is no reason why the other blocks being MCHB-3 and MCHB-4 shall not be replaced by grant of alternative blocks in favour of the petitioner. The order impugned dated 30th November, 2022, being bereft of proper reasoning and consideration, is liable to be set aside.

The writ petition, being WPA 10556 of 2023 is allowed.

The order impugned dated 30th November, 2022 is set aside.

The concerned authorities, being the 4th and 5th respondents are directed to take necessary steps for allotment of alternative sand blocks in favour of the petitioner in place of MCHB-3 and MCHB-4 and handover possession of the alternative sand blocks to the petitioner within two months from the date of communication of this order. The period of lease shall commence from the date of delivery of possession of the blocks in favour of the petitioner.

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.)