

WPA 15674 of 2022

Triumph Sales & Services & Anr.
Vs.
The State of W. B. & Ors.

Mr. Mir Anowar ...for the petitioners.

Mr. Ashim Kr. Ganguly
Ms. Sukla Das Chandra ...for the State.

Mr. Sanjay Saha ...for respondent no.4.

Affidavit of service filed by the petitioners is taken on record.

The petitioners, being the highest bidders in the e-auction floated by the authority on 4th July 2017, were granted long-term mining lease vide deed of lease registered on 10th January, 2018. The lease expired on 9th January, 2023.

The petitioners were unable to carry on mining operation due to covid-19 pandemic and have prayed for extension of the period of lease on that ground.

Learned counsel for the petitioners has taken this Court to Clause 5 of part IX of the deed of lease which demonstrates that if through force majeure the fulfilment by the lessee of any of the terms and conditions of this lease be delayed, the period of such delay shall be added to the period fixed by this lease.

Learned counsel also placed reliance on an office Memorandum issued by the Department of Expenditure, Procurement Policy Division, Ministry of Finance, Government of India dated 13th May, 2020 which recognizes the restrictions placed on the movement of goods, services and manpower on account of the lock down situation due to covid-19 pandemic and records that the date 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 without imposition of any cost or penalty subject to the parties to the contract, not being in default of the contractual obligations as on 19th January, 2020.

The petitioners submitted a representation before the concerned authority on 7th February, 2022 in this regard which is yet to be considered. The petitioners pray for a direction upon the authority to consider the representation at the earliest.

It is submitted on behalf of the State respondents that the 3rd respondent be directed to consider the representation in accordance with law.

In view of the above, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioners dated 7th February, 2022 within six weeks from the date of communication of this order upon granting reasonable

opportunity of hearing to all the stakeholders including the petitioners and in terms of the office Memorandum dated 13th May, 2020 as well as clause 5 of part IX of the deed of lease, in accordance with law.

The decision taken by the authority shall be communicated to the petitioners within a week thereof.

There shall, however, 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.)