

April 18, 2024
(18) ARDR

WPA 16316 of 2022

Success Niryat Pvt. Ltd. & anr.
Vs.

The State of West Bengal & ors.

Adv. Mir Anowar,
Adv. Debanjali Payra,

...for the petitioners.

Adv. Sanjay Saha,
Adv. Subhasish Bhattacharya,

...for the respondent no.4.

Adv. Md. T. M. Siddiqui,
Adv. S. Dhar,

...for the State.

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

Heard learned counsels for the parties.

Being the highest bidder in an e-auction floated by
the authority on 1st December, 2016, the petitioners were
granted long term mining lease for a period of five years
vide deed of lease executed and registered on 21st
November, 2017. The lease expired on 20th November,
2022. The petitioners were unable to carry on mining
operation due to covid-19 pandemic and have sought
extension of the period of lease.

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
fulfillment by the lessee of any of the terms and
conditions of the lease be delayed, the period of such
delay be added to the period fixed by this lease.

Learned counsel has also drawn attention of the Court to an office memorandum issued by the Department of Expenditure, Procurement Policy Division, Ministry of Finance, Government of India dated 13th May, 2020 which recognises the restriction placed on the movement of goods, services and manpower on account of lockdown situation and permits the parties to the contract to invoke force majeure clause. The memorandum states that date for completion of contractual obligations which had to be completed on or after 20th February, 2020, shall stand extended for a period of not less than three months and not more than six months without imposition of any cost or penalty subject to the parties not being in default of the contractual obligations as on 19th January, 2020.

The petitioners submitted a representation in this regard before the concerned authority on 20th February, 2022 which is yet to be considered. The petitioners pray for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the respondents submit 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 20th February, 2022 within six weeks from the date of communication of this order upon affording reasonable

opportunity of hearing to all the stakeholders including the petitioners, 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 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.)