

S/L 11
18.09.2024
Court. No. 551
Suvayan

WPA 13902 of 2012

**Anowar Sk.
Vs.
The State of West Bengal & Ors.**

Mr. Ambu Bindu Chakraborty

...for the petitioner.

Mr. Jahar Lal De

Ms. Anjushri Mukherjee

Mr. Jayanta Samanta

...for the State.

1. The subject matter of the instant writ petition is the order dated 30th April 2012 as passed by District Magistrate, Birbhum whereby and whereunder the said District Magistrate rejected the prayer of the writ petitioner as made by him on 18th November, 2009.

2. In support of his contention learned Advocate for the writ petitioner at the very outset draws attention of this Court to the Annexure – A to the supplementary affidavit as filed by the writ petitioner as affirmed on 27th July, 2012. Placing reliance upon Annexure – A to the said supplementary affidavit being the copy of the application dated 18th November, 2009 it is submitted on behalf of the petitioner that the writ petitioner being an unemployed youth made a prayer with the BL&LRO, Md. Bazar, District – Birbhum permitting him to make quarry of black stone in Mouza – Jethia under P.S. Md. Bazar. It is submitted on behalf of the writ petitioner that since the said application dated 18th November, 2009 was not considered favourably, in an earlier round of litigation a co-ordinate Bench of this Court directed the respondent

authorities to consider the prayer of the writ petitioner as made on 18th November, 2009 in accordance with law.

3. Admittedly, the order under challenge dated 30th April, 2012 is the outcome of the said earlier order of this Court whereby and whereunder the District Magistrate, Birbhum expressed its inability to concede with the request made by the writ petitioner on 18th November, 2009.

4. It is submitted on behalf of the writ petitioner that on perusal of the order dated 30th April, 2012 as passed by District Magistrate, Birbhum it would reveal that practically no reason has been assigned by the said District Magistrate while rejecting the prayer of the writ petitioner. It is thus submitted that an appropriate writ may be issued directing the respondent authorities for quashing of the said order dated 30th April, 2012. It is further prayed that an appropriate writ of mandamus may be issued against the respondents authorities for grant of long term mining lease for quarry of black stone from Mouza – Jethia by the writ petitioner.

5. Per contra, Mr. Dey, learned Advocate for the State in course of his submission draws attention of this Court to the photocopy of the application dated 18th November, 2009 being Annexure –A to the supplementary affidavit as filed by the writ petitioner. Attention of this Court is also drawn to the order under challenge dated 30th April, 2012. It is submitted by Mr. Dey that on comparative reading of the said copy of the letter dated 18th November,

2009 and order dated 30th April, 2012 it would reveal that the application dated 18th November, 2009 is not all an application for long term mining lease as rightly held by the District Magistrate, Birbhum. It is further submitted by Mr. Dey that from the order under challenge dated 30th April, 2012 it would reveal that the land in question falls within the reserved area of West Bengal Mineral Development and Trading Corporation Limited by virtue a notification No. 2465-Mines dated 12.09.1973, 3900-CI/Minies dated 07.06.1985, 421-CI/o/M.D.T.C.-Misc-005/o/MI dated 08.11.2002.

6. It is further submitted by Mr. Dey that the said three notifications are not under challenged in the instant writ petition as well as in any other writ petition.

7. Mr. Saha, learned Advocate appearing for the respondent No. 8 supports the contention of Mr. Dey. It is further submitted by him that during the pendency of the instant writ petition a long term lease has been granted in favour of the respondent No. 8/Corporation for making quarry in respect of the reserved area under Mouza – Jethia.

8. After careful consideration of the entire materials as placed before this Court and after giving due consideration over the submissions of the learned Advocates for the contending parties it appears to this Court that admittedly the letter dated 18th November, 2009 as claimed to have been issued by the writ petitioner is not at all a prayer for long term mining lease as

contemplated under the relevant rules rather it appears to this Court that a simple request has been made by the writ petitioner to the concerned BL& LRO for granting permission to make quarry in Mouza – Jethia as rightly held by the District Magistrate, Birbhum. From the order under challenge as well as from the relevant notifications which have been placed before this Court it reveals that some plots in Mouza – Jethia have been kept reserved for the respondent No. 8/Corporation for quarry and the said notifications are still in force.

9. On perusal of the said notifications I do not find any irregularity or illegality in those notifications.

10. This Court thus finds no reason to interfere with the order of the District Magistrate as passed on 30th April, 2012. The writ petitioner has miserably failed to substantiate that right to equality and/or equality before law as enshrined in Article 14 of the Constitution of India has been violated on the part of the respondent State authorities while passing the order dated 30th April, 2012.

11. This Court thus finds not merit in the instant writ petition and accordingly, the instant writ petition being WPA 13902 of 2012 is dismissed.

12. There shall be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)