

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20631 of 2012

Uttam Kesh
Vs.
The State of West Bengal & Ors.

Mr. Pinaki Ranjan Chakrabarti
Mr. Pallab Chatterjee
... For the petitioner

Mr. Ayan Ch. Roy
Mr. Anirban Dutta
... For the State

1. The subject matter of challenge in this writ petition is the order dated July 7, 2010 as passed by the respondent no.3 authority who, by the said order, rejected the prayer of the writ petitioner for long term mining lease in respect of Plot No.2137 in Mouza Baralachipur in the District of Bankura on the ground that the plot of land in question is an agricultural land where mining is prohibited under Rule 4(1)(b) of the West Bengal Minor Minerals Rules, 2002 (hereinafter referred to as the 'said Rules' in short).

2. It is the case of the petitioner that for a considerable length of time the writ petitioner was running the business of stone quarry by extracting black stone from the aforesaid Plot No.2137 in Mouza Baralachipur in the District of Bankura and during such years the writ petitioner has paid royalty which has been accepted by the respondent authorities. The petitioner

also possesses necessary licence for use of explosive for crashing stones. It is the grievance of the petitioner that after the expiry of the long term mining lease, the writ petitioner on July 31, 2003, upon compliance of all formalities, made a new application before the respondent authorities for grant of long term mining lease afresh and at that time it was communicated to the writ petitioner that since such plot of land has been classified as agricultural land, he has to make an application for conversion of the same as per the provisions of the West Bengal Land Reforms Act, 1955 and then only his application for grant of fresh long term lease could be considered. In fact, in the order under challenge dated July 7, 2010, such finding with regard to the classification of land has been reflected.

3. Learned advocate for the writ petitioner thus submits that the order dated July 7, 2010 has got no merit at all since the writ petitioner was carrying on business of quarry of stones in the selfsame plot of land for a considerable length of time and, therefore, an appropriate Writ may be issued for quashing the said order dated July 7, 2010 and an appropriate direction may be given to the respondent authorities for grant of long term mining lease in favour of the writ petitioner in respect of the aforesaid plot of land.

4. Learned advocate for the State, however, opposes such prayer. It is contended that since mining is

prohibited upon an agricultural land, the respondent authorities are justified in rejecting the prayer of the writ petitioner.

5. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears that it is undisputed that for a considerable length of time the writ petitioner was carrying on business of mining and quarry in Plot No.2137 in Mouza Baralachipur in the District of Bankura. Admittedly, all on a sudden, the respondent authorities detected that the land in question is classified as an agricultural land. It is equally admitted position that unless conversion is made, an agricultural land cannot be used for any mining purpose.

6. Such being the position, this Court while disposing of the writ petition grants liberty to the writ petitioner to make appropriate application with the appropriate authority for conversion of the classification of land in respect of Plot No.2137 in Mouza Baralachipur in the District of Bankura.

7. In the event such application is made, the Appropriate Authority of the Land and Land Reforms Department, Government of West Bengal, in the District of Bankura, shall consider the representation of the writ petitioner for conversion of such land within a month from making of such application and shall dispose of such representation by passing a reasoned order within a

fortnight thereafter and shall communicate the same to the writ petitioner forthwith either through special messenger or through speed post.

8. In the event, such prayer of the writ petitioner for conversion of the land is considered favourably, the respondent authorities are directed to treat the instant application as a prayer for grant of long term mining lease in respect of the aforesaid plot in the aforesaid Mouza and in the aforesaid District and the respondent authorities are further directed to dispose of such representation for grant of long term mining lease by passing a reasoned order also within a month from the date of submission of a copy of the writ petition after giving an opportunity of hearing to the writ petitioner. It is further directed that such reasoned order is also to be communicated to the petitioner forthwith.

9. With the aforementioned observation, the instant writ petition along with all connected interim applications, if there be any, stand disposed of.

10. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

11. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)