

10 19.7.2024
Sc Ct. no.2

WPA 25464 OF 2022

Ainal Haque

Vs.

The State of West Bengal & Ors.

Mr. Soumya Majumdar
Mr. Subhendu Roy Choudhury
Ms. Shila Chatterjee.

.....For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. Subhasish Bandyopadhyay
Mr. Srinath Singha Roy.

.....For the State

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Soumya Majumdar, learned counsel is appearing for the petitioner.

Mr. Soumitra Bandyopadhyay, learned State counsel appears for the respondents.

By virtue of a lease Deed dated **November 14, 2017, Annexure-P1 at page 12** to the writ petition the petitioner was granted a mining lease for excavation of sand block in respect of a particular piece of land. The lease was for a period of **five years**. The COVID period intervened. During pendency of the lease and its subsistence the petitioner submitted a representation dated **November 2, 2022, Annexure-P2 at page 50** to the writ petition, the same has not been considered.

Learned State counsel submits that, it is a contractual relationship between the parties, the same cannot be enforced through a writ petition.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record this Court is also of the opinion that, enforcement of a contract and/or specific performance of a contract cannot be directed by a Writ Court. However, two factors in the facts of this case are required to be considered. Firstly, the intervening COVID period and secondly, the representation was made during the subsistence of the lease on **November 2, 2022** as referred to above. When the representation was made before expiry of the lease, it was the duty and obligation of the State authority to consider the same in accordance with law.

Accordingly, the respondent no.3 is directed upon issuing a prior hearing notice of at least **seven days** to the petitioner and any other relevant party/parties the respondent no.3 thinks fit and proper, the respondent no.3 shall grant an opportunity of hearing to them and then dispose of the said representation dated **November 2, 2022**, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **six weeks** from the date of communication of this order. The respondent no.3 then

shall communicate the reasoned order to the petitioner and such other relevant party/partiers positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the writ petition in any manner and the petitioner shall be at liberty to urge whatever points he wishes to urge in support of his claim by relying upon whatever records and documents he wishes to reply upon before the respondent no.3.

In the event the reasoned order goes in favour of the petitioner, the respondent no.3 and/or appropriate State authority shall take all necessary and consequential steps forthwith.

It is made clear that, this order shall not create any right or equity in favour of the petitioner if the petitioner is not eligible to receive his claim strictly in accordance with law.

This order shall, however, not be treated as precedence.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 25464 of 2022** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Aniruddha Roy, J.)